



Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2023

I, General the Honourable David Hurley AC DSC (Retd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated: 6 July 2023

David Hurley
Governor-General

By His Excellency's Command

Madeleine King
Minister for Resources

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Part 1—Preliminary

1 Name

This instrument is the *Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2023*.

2 Commencement

- (1) Each provision of this instrument 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.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	The day after the end of the period of 6 months beginning on the day this instrument is registered.	10 January 2024

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*.

4 Object

The object of this instrument is to ensure that any petroleum activity or greenhouse gas activity carried out in an offshore area is:

- (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.

5 Definitions

In this instrument:

accepted offshore project proposal means an offshore project proposal that has been accepted by NOPSEMA under section 13.

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Act means the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*.

activity means:

- (a) a petroleum activity; or
- (b) a greenhouse gas activity;

and includes, where the context permits, a reference to a proposed activity or any stage of an activity.

Commonwealth land has the same meaning as in the EPBC Act.

Commonwealth marine area has the same meaning as in the EPBC Act.

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 of an activity.

declared Ramsar wetland has the same meaning as in the EPBC Act.

declared World Heritage property has the same meaning as in the EPBC Act.

ecological character has the same meaning as in the EPBC Act.

environment means:

- (a) ecosystems and their constituent parts, including people and communities; and
- (b) natural and physical resources; and
- (c) the qualities and characteristics of locations, places and areas; and
- (d) the heritage value of places;

and includes the social, economic and cultural features of the matters mentioned in paragraphs (a), (b), (c) and (d).

environmental impact, of an activity, means any change to the environment, whether adverse or beneficial, that wholly or partially results from the activity.

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

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

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

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

environment plan, for an activity, means a plan that is submitted to NOPSEMA under section 26.

environment plan acceptance criteria has the meaning given by section 34.

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

facility includes a structure or installation of any kind.

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.

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) the registered holder of a greenhouse gas search authority;
- (e) the registered holder of a greenhouse gas special authority;
- (f) the holder of a greenhouse gas research consent.

listed migratory species has the same meaning as in the EPBC Act.

listed threatened ecological community has the same meaning as in the EPBC Act.

listed threatened species has the same meaning as in the EPBC Act.

National Heritage place has the same meaning as in the EPBC Act.

National Heritage value has the same meaning as in the EPBC Act.

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 2.

offshore project proposal means an offshore project proposal that is submitted to NOPSEMA under section 6 or subsection 15(2).

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

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

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.

proponent means a person who submits an offshore project proposal to NOPSEMA.

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

relevant person has the meaning given by subsection 25(1).

reportable incident, for an activity, means an incident relating to the activity that has caused, or has the potential to cause, moderate to significant environmental damage.

revise, in relation to an environment plan, includes extend or modify.

seismic or exploratory drilling activity means a seismic survey (for any purpose) or drilling for any of the following purposes:

- (a) exploring for petroleum;
- (b) recovering petroleum on an appraisal basis;
- (c) exploring for a potential greenhouse gas storage formation;
- (d) exploring for a potential greenhouse gas injection site;
- (e) injecting, on an appraisal basis, a greenhouse gas substance into a part of a geological formation;
- (f) storing, on an appraisal basis, a greenhouse gas substance in a part of a geological formation;

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- (g) doing either of the following on an appraisal basis in connection with exploration for a potential greenhouse gas storage formation or a potential greenhouse gas injection site:
 - (i) injecting air, petroleum or water into a part of a geological formation;
 - (ii) storing air, petroleum or water in a part of a geological formation.

seismic or exploratory drilling environment plan means an environment plan for a seismic or exploratory drilling activity (whether or not the plan is also for another activity), but does not include a revised environment plan that is submitted in accordance with subsection 39(2).

sensitive information in relation to an environment plan means:

- (a) personal information (within the meaning of the *Privacy Act 1988*) about an individual that:
 - (i) is contained either in information given by a relevant person in consultation under section 25 in the course of preparing the plan or in comments described in subsection 30(2) in connection with the plan; and
 - (ii) is not merely a reference to published material of which the individual was an author; and
 - (iii) is not merely the name or contact details of an individual to whom that information or those comments were given; or
- (b) information:
 - (i) that was given either by a relevant person in consultation under section 25 in the course of preparing the plan or by a person in comments described in subsection 30(2) in connection with the plan; and
 - (ii) that the giver requested not be published.

Note: Section 25 requires consultation of relevant persons in the course of preparing any environment plan. Subsection 30(2) describes comments made in accordance with an invitation for members of the public to comment on matters that must be included in a seismic or exploratory drilling environment plan.

sensitive information part, of an environment plan, means a discrete part of the plan that contains only one or both of the following and is clearly indicated as containing only one or both of the following:

- (a) sensitive information;
- (b) a copy of the full text of any response by a relevant person in consultation under section 25 in the course of preparing the plan.

title means:

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

titleholder means:

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

world heritage values has the same meaning as in the EPBC Act.

Part 2—Offshore project proposals

6 Submission of offshore project proposal

- (1) Before commencing an offshore project, a person must submit an offshore project proposal for the project to NOPSEMA.
- (2) However, subsection (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 Environment 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) 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 for the purposes of paragraph (2)(c) of this section.

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 subsection 26(3)).

Note 2: A fee is payable for considering the proposal (see section 57).

Note 3: It is an offence to undertake an activity without an environment plan being in force for the activity (see section 17).

- (4) The proposal must be in writing.

7 Contents of offshore project proposal

- (1) This section sets out the required contents of an offshore project proposal.
- (2) The proposal must include:
 - (a) the proponent's name and contact details; and
 - (b) 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;
 - (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) a description of the existing environment that may be affected by the project; and

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- (d) details of the relevant values and sensitivities (if any) of that environment; and
- (e) the environmental performance outcomes for each activity that is part of the project; and
- (f) a description of 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 NOPSEMA if an activity, or part of an activity, will be undertaken in any part of a declared World Heritage property (see sections 9 and 13).

- (3) Without limiting paragraph (2)(d), relevant values and sensitivities may include any of the following:
 - (a) the world heritage values of a declared World Heritage property;
 - (b) the National Heritage values of a National Heritage place;
 - (c) the ecological character of a declared Ramsar wetland;
 - (d) the presence of a listed threatened species or listed threatened ecological community;
 - (e) the presence of a listed migratory species;
 - (f) any values and sensitivities that exist in, or in relation to, part or all of:
 - (i) a Commonwealth marine area; or
 - (ii) Commonwealth land.
- (4) The proposal must describe:
 - (a) the requirements, including legislative requirements, that apply to the project and are relevant to the environmental management of the project; and
 - (b) how those requirements will be met.
- (5) The proposal must include:
 - (a) details of the environmental impacts and risks of the activities that are part of the project; and
 - (b) an evaluation of all the impacts and risks, appropriate to the nature and scale of each impact or risk.

8 Further information

- (1) If a proponent submits an offshore project proposal, NOPSEMA may request the proponent to provide further written information about any of the matters mentioned in section 7.
- (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.

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- (3) If the proponent provides the requested information within the period specified in the request, or within such longer period agreed to by NOPSEMA:
 - (a) the information becomes part of the proposal; and
 - (b) NOPSEMA must have regard to the information as if it had been included in the submitted proposal.

9 Suitability of offshore project proposal for publication

- (1) If a proponent submits an offshore project proposal, NOPSEMA must:
 - (a) if NOPSEMA is reasonably satisfied that the proposal meets the criteria set out in subsection (4)—decide that the proposal is suitable for publication; or
 - (b) if NOPSEMA is not reasonably satisfied that the proposal meets the criteria set out in subsection (4)—decide that the proposal is not suitable for publication.
- (2) A decision on the proposal must be made:
 - (a) within 30 days after the proposal is submitted; or
 - (b) if NOPSEMA is unable to make a decision within that 30 day period and, before the end of that period, notifies the proponent in writing of a later day by which a decision will be made—no later than that day.
- (3) A failure to comply with subsection (2) does not affect the validity of NOPSEMA's decision under subsection (1).
- (4) For the purposes of subsection (1), the criteria are that the proposal:
 - (a) appropriately identifies and evaluates the environmental impacts and risks of the activities that are part of the project; and
 - (b) sets out environmental performance outcomes, for each activity that is part of the project, that are:
 - (i) consistent with the principles of ecologically sustainable development; and
 - (ii) relevant to the identified environmental impacts and risks of 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; and
 - (d) sufficiently addresses each of the matters mentioned in section 7 (contents of an offshore project proposal).
- (5) If NOPSEMA decides that the proposal is suitable for publication, NOPSEMA must, as soon as practicable after making the decision, notify the proponent in writing and publish on NOPSEMA's website:
 - (a) the proposal; and
 - (b) a notice:
 - (i) inviting the public to give NOPSEMA written comments on the proposal; and
 - (ii) specifying a period of at least 4 weeks for giving comments.

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- (6) If NOPSEMA decides that the proposal is not suitable for publication, NOPSEMA must, as soon as practicable after making the decision, notify the proponent, in writing.

10 NOPSEMA must give proponent copies of comments

As soon as practicable after receiving comments on an offshore project proposal described in paragraph 9(5)(b) within the period mentioned in that paragraph, NOPSEMA must give a copy of the comments to the proponent of the proposal.

11 Resubmission of offshore project proposal after period for public comment

After the end of the period of public comment for an offshore project proposal mentioned in subparagraph 9(5)(b)(ii), the proponent:

- (a) may modify the proposal; and
- (b) must (whether the proponent modifies the proposal or not) resubmit the proposal (as modified, if relevant) to NOPSEMA as soon as practicable after the end of that period; and
- (c) if the proponent received a copy of comments on the proposal under section 10—must include with the resubmitted proposal:
 - (i) a summary of all comments received; and
 - (ii) an assessment of the merits of each objection or claim in those comments 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.

12 Further information on resubmitted proposal

- (1) If a proponent resubmits an offshore project proposal under section 11, NOPSEMA may request the proponent to provide further written information about:
 - (a) any of the matters mentioned in section 7 (contents of an offshore project proposal); or
 - (b) any of the matters mentioned in paragraph 11(c).
- (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 the proponent provides the requested information within the period specified in the request, or within such longer period agreed to by NOPSEMA:
 - (a) if the information is about a matter mentioned in section 7—the information becomes part of the resubmitted proposal and NOPSEMA must have regard to the information as if it had been included in the resubmitted proposal; and

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- (b) if the information is about a matter mentioned in paragraph 11(c)—NOPSEMA must have regard to the information as if the information had been included with the resubmitted proposal.

13 Decision on resubmitted proposal

- (1) If a proponent resubmits an offshore project proposal under section 11, NOPSEMA must:
 - (a) if NOPSEMA is reasonably satisfied that the proposal meets the criteria set out in subsection (4) of this section—accept the proposal; or
 - (b) if NOPSEMA is not reasonably satisfied that the proposal meets the criteria set out in subsection (4) of this section—refuse to accept the proposal.
- (2) A decision on the proposal must be made:
 - (a) within 30 days after the proposal is resubmitted; or
 - (b) if NOPSEMA is unable to make a decision within that 30 day period and, before the end of that period, notifies the proponent in writing of a later day by which a decision will be made—no later than that day.
- (3) A failure to comply with subsection (2) does not affect the validity of NOPSEMA's decision under subsection (1).
- (4) For the purposes of subsection (1), 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 activities that are part of the project; and
 - (d) demonstrates that the environmental impacts and risks of the project will be managed to an acceptable level; and
 - (e) sets out appropriate environmental performance outcomes for each activity that are consistent with the principles of ecologically sustainable development; and
 - (f) does not involve an activity, or part of an activity, being undertaken in any part of a declared World Heritage property.
- (5) If NOPSEMA accepts the proposal, NOPSEMA must, within 10 days after making the decision, notify the proponent in writing and publish the accepted proposal on NOPSEMA's website.
- (6) If NOPSEMA refuses to accept the proposal, NOPSEMA must, as soon as practicable after making the decision:
 - (a) notify the proponent, in writing, of the decision and the reasons for the decision; and
 - (b) publish a notice on NOPSEMA's website setting out the decision and the reasons for the decision.

14 Withdrawal of offshore project proposal

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

15 Use of the offshore project proposal system for other activities

- (1) This section applies to an activity that a person proposes to commence for one or more of the following purposes (whether or not the activity is undertaken for other purposes):
 - (a) exploring for petroleum;
 - (b) recovering petroleum on an appraisal basis;
 - (c) exploring for a potential greenhouse gas storage formation;
 - (d) exploring for a potential greenhouse gas injection site;
 - (e) injecting, on an appraisal basis, a greenhouse gas substance into a part of a geological formation;
 - (f) storing, on an appraisal basis, a greenhouse gas substance in a part of a geological formation;
 - (g) injecting a greenhouse gas substance into an identified greenhouse gas storage formation;
 - (h) permanently storing a greenhouse gas substance in an identified greenhouse gas storage formation;
 - (i) conveying a greenhouse gas substance by pipeline;
 - (j) decommissioning a facility, petroleum pipeline or greenhouse gas pipeline.
- (2) If a person wishes to use the arrangements in this Part for one or more activities to which this section applies, the person may:
 - (a) prepare an offshore project proposal for the activity or activities as if the activity or activities were an offshore project; and
 - (b) submit the proposal to NOPSEMA.
- (3) If a person submits an offshore project proposal to NOPSEMA under subsection (2):
 - (a) subsection 6(4), sections 7 to 14 and section 57 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 for the purposes of this instrument.

Part 3—Financial assurance

16 Demonstration of financial assurance prior condition for acceptance of environment plan

- (1) For the purposes of paragraphs 571(3)(a) and (b) of the Act, NOPSEMA must not accept an environment plan, under section 33 of this instrument, for a petroleum activity under a petroleum title unless NOPSEMA is reasonably satisfied that:
- (a) the titleholder is compliant with subsection 571(2) of the Act in relation to the petroleum activity; and
 - (b) the compliance is in a form that is acceptable to NOPSEMA.

Note: Failure by a petroleum titleholder to maintain compliance with subsection 571(2) of the Act, in a form acceptable to NOPSEMA, is a ground for withdrawing the acceptance of an environment plan: see paragraph 43(1)(e) of this instrument.

- (2) Subsection (1) does not apply if:
- (a) the environment plan was submitted by an applicant for a petroleum access authority, petroleum special prospecting authority or pipeline licence as permitted by subsection 26(2); and
 - (b) immediately before NOPSEMA decides whether or not to accept the plan under section 33, the applicant does not hold the authority or licence.

Note: If the authority or licence is later granted, the applicant would then be required to maintain financial assurance in accordance with subsection 571(2) of the Act.

Part 4—Environment plans

Division 1—Requirement for environment plan

17 Accepted environment plan required for activity

- (1) A titleholder commits an offence of strict liability if:
 - (a) the titleholder undertakes an activity under the title; and
 - (b) an environment plan is not in force for the activity.

Penalty: 80 penalty units.

- (2) This section does not affect any other requirement under this instrument, or any other regulations made under the Act, for a consent to construct or install, or a consent to use, a facility.

18 Operations must comply with accepted environment plan

- (1) A titleholder commits an offence of strict liability if:
 - (a) an environment plan is in force for an activity under the title; and
 - (b) the titleholder undertakes the activity in a way that is contrary to:
 - (i) the environment plan; or
 - (ii) any limitation or condition to which acceptance of the plan was made subject under section 33.

Penalty: 80 penalty units.

- (2) Subsection (1) does not apply in relation to an activity if the titleholder has the written consent of NOPSEMA to undertake the activity in that way.

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

- (3) NOPSEMA must not give consent under subsection (2) unless there are reasonable grounds for believing that the way in which the activity is to be undertaken will not result in any significant new environmental impact or risk, or significantly increase any existing environmental impact or risk.

19 Operations must not continue if new or increased environmental risk identified

- (1) A titleholder commits an offence of strict liability if:
 - (a) the titleholder undertakes an activity under the title after the occurrence of:
 - (i) any significant new environmental impact or risk arising from the activity; or
 - (ii) any significant increase in an existing environmental impact or risk arising from the activity; and
 - (b) the new impact or risk, or increase in the impact or risk, is not provided for in the environment plan in force for the activity.

Penalty: 80 penalty units.

Part 4 Environment plans

Division 1 Requirement for environment plan

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- (2) Subsection (1) does not apply in relation to an activity if:
- (a) the titleholder has submitted a revised environment plan for the activity in accordance with subsection 39(2); and
 - (b) NOPSEMA has not refused to accept the revised environment plan.

Note 1: Under subsection 39(2), the titleholder is required to submit a revised environment plan before, or as soon as practicable after, the occurrence of a significant new, or significantly increased, environmental impact or risk of the activity.

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

Division 2—Contents of environment plan

20 Purpose of this Division

This Division sets out the required contents of an environment plan for an activity under a title.

21 Environmental assessment

Description of the activity

- (1) The environment plan must contain a comprehensive description of the activity including the following:
 - (a) the location or locations of the activity;
 - (b) general details of the construction and layout of any facility that is used in undertaking the activity;
 - (c) an outline of the operational details of the activity (for example, seismic surveys, exploration drilling or production) and proposed timetables for undertaking the activity;
 - (d) any additional information relevant to consideration of environmental impacts and risks of the activity.

Note: An environment plan will not be capable of being accepted by NOPSEMA 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 section 34).

Description of the environment

- (2) The environment plan must:
 - (a) describe the existing environment that may be affected by the activity; and
 - (b) include details of the relevant values and sensitivities (if any) of that environment.

Note: The definition of **environment** in section 5 includes its social, economic and cultural features.

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

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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 of the activity; and
 - (b) an evaluation of all the environmental 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 of the environmental impacts and risks arising directly or indirectly from:
- (a) all operations of the activity; and
 - (b) any potential emergency conditions, whether resulting from an accident or any other cause.

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 for the activity 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.

22 Implementation strategy for environment plan

- (1) The environment plan must contain an implementation strategy for the activity in accordance with this section.

Environmental management system

- (2) 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 environmental performance standards in the environment plan are being met.

Responsibilities of employees and contractors

- (3) The implementation strategy must establish a clear chain of command, setting out the roles and responsibilities of employees and contractors in relation to the implementation, management and review of the environment plan, including during emergencies or potential emergencies.
- (4) The implementation strategy must include measures to ensure that each employee or contractor working on, or in connection with, the activity is aware of the employee's or contractor's responsibilities in relation to the environment plan, including during emergencies or potential emergencies, and has the appropriate competencies and training.

Monitoring and reporting

- (5) The implementation strategy must provide for sufficient monitoring, recording, audit, management of non-conformance and review of the titleholder's environmental performance and the implementation strategy to ensure that the environmental performance outcomes and environmental performance standards in the environment plan are being met.
- (6) 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 environmental performance standards in the environment plan are being met.
- (7) The implementation strategy must state when the titleholder will report to NOPSEMA in relation to the titleholder's environmental performance for the activity. The interval between reports must not be more than 12 months.

Note: Section 51 requires a titleholder to report on environmental performance at the times or intervals set out in the environment plan.

Oil pollution emergency response

- (8) The implementation strategy must contain an oil pollution emergency plan and provide for the updating of the plan.
- (9) 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.

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- (10) 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 of the activity; and
 - (b) is sufficient to inform any remediation activities.
- (11) 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.

Testing oil pollution emergency response arrangements

- (12) The implementation strategy must include arrangements for testing the response arrangements in the oil pollution emergency plan. The testing arrangements must be appropriate to the response arrangements and to the nature and scale of the risk of oil pollution for the activity.
- (13) The testing 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 any recommendations arising from tests.
- (14) For the purposes of paragraph (13)(b), 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 scheduled to be 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 scheduled to be conducted—testing the response arrangements in relation to the facility when it becomes operational.

Consultation and compliance

- (15) The implementation strategy must provide for appropriate consultation with:
 - (a) relevant authorities of the Commonwealth, a State or a Territory; and
 - (b) other relevant interested persons or organisations.
- (16) The implementation strategy must comply with the Act, this instrument, any other regulations made under the Act, and any other environmental legislation applying to the activity.

23 Details of titleholder and nominated liaison

- (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 for the activity:
 - (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 NOPSEMA of any of the following:
 - (a) a change in the titleholder;
 - (b) a change in the titleholder's nominated liaison for the activity;
 - (c) a change in the contact details for either the titleholder or the nominated liaison.

24 Other information in environment plan

The environment plan must contain the following:

- (a) a statement of the titleholder's corporate environmental policy;
- (b) a report on all consultations under section 25 of any relevant person by the titleholder, 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 titleholder'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;
- (c) details of all reportable incidents in relation to the proposed activity.

Division 3—Consultation in preparing environment plan

25 Consultation with relevant authorities, persons and organisations etc

- (1) In the course of preparing an environment plan (including a revised environment plan referred to in Division 5) a titleholder must consult each of the following (a *relevant person*):
 - (a) each Commonwealth, State or Northern Territory agency or authority to which the activities to be carried out under the environment plan may be relevant;
 - (b) if the plan relates to activities in the offshore area of a State—the Department of the responsible State Minister;
 - (c) if the plan relates to activities in the Principal Northern Territory offshore area—the Department of 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;
 - (e) any other person or organisation that the titleholder considers relevant.
- (2) For the purpose of the consultation, the titleholder 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 titleholder must allow a relevant person a reasonable period for the consultation.
- (4) The titleholder must tell each relevant person the titleholder consults that:
 - (a) the relevant person may request that particular information the relevant person provides in the consultation not be published; and
 - (b) information subject to such a request is not to be published under this Part.

Division 4—Submission and acceptance of environment plan

26 Submission of environment plan

- (1) Before commencing an activity under a title, the titleholder must submit an environment plan for the activity to NOPSEMA.
- (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 NOPSEMA; and
 - (b) is taken to be a titleholder for the purposes of this Division and Divisions 2 and 3.

Note: It is an offence to undertake an activity under a title without an environment plan being in force for the activity (see section 17).

Submission of plan for offshore project

- (3) However, an environment plan for an activity that is, or is part of, an offshore project may be submitted only if:
 - (a) there is an accepted 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 Environment 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 an environment plan for an activity is submitted in contravention of subsection (3), the plan is taken not to have been submitted.
- (5) 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 for the purposes of subparagraph (3)(b)(iii) of this section.

Form of environment plan

- (6) An environment plan must be in writing.
- (7) An environment plan may, if NOPSEMA approves, relate to:
 - (a) one or more stages of an activity; or
 - (b) an activity in one or more identified locations specified in the plan; or
 - (c) more than one activity; or

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(d) an activity or activities to be undertaken under 2 or more titles held by different titleholders.

- (8) All sensitive information (if any) in an environment plan, and the full text of any response by a relevant person to consultation under section 25 in the course of preparation of the plan, must be contained in the sensitive information part of the plan and not anywhere else in the plan.

Note: Subparagraph 24(b)(iv) requires the plan to contain a copy of the full text of any response by a relevant person to consultation under section 25 in the course of preparation of the plan.

27 Checking completeness of submitted environment plan

Within 5 business days after an environment plan is submitted to NOPSEMA under section 26, resubmitted in response to an invitation under section 29 or resubmitted under subsection 31(2), NOPSEMA must decide provisionally whether the plan includes material apparently addressing all the provisions of Division 2 (Contents of an environment plan).

Note: The provisional decision is not a decision whether to accept the plan.

28 Publishing environment plan and associated information

- (1) If NOPSEMA's provisional decision under section 27 is that the environment plan includes material apparently addressing all the provisions of Division 2 (Contents of an environment plan), NOPSEMA must publish on NOPSEMA's website as soon as practicable:
- (a) the plan with the sensitive information part removed; and
 - (b) the name of the titleholder who submitted the plan; and
 - (c) a description of the activity or stage of the activity to which the plan relates; 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 for the activity.

Note: If the plan is a seismic or exploratory drilling environment plan, NOPSEMA must also publish an invitation for public comment on the plan: see section 30.

- (2) If the environment plan is a revised environment plan submitted in accordance with Division 5, NOPSEMA must also publish in the same place the reason for the revision.

29 Action on incomplete environment plan

If NOPSEMA's provisional decision under section 27 is that the environment plan does not include material apparently addressing all the provisions of Division 2 (Contents of an environment plan), NOPSEMA must give the titleholder who submitted the plan a written notice:

- (a) identifying the provisions of that Division that appear not to be addressed by the plan; and
- (b) inviting the titleholder to modify the plan and resubmit it to NOPSEMA.

30 Public comments on seismic or exploratory drilling environment plan

NOPSEMA must invite comments from the public

- (1) When NOPSEMA publishes a seismic or exploratory drilling environment plan (with the sensitive information part removed) on NOPSEMA's website under section 28, NOPSEMA must also publish in the same place an invitation for any person:
 - (a) to give NOPSEMA, within 30 days, written comments on the matters described in Division 2 (Contents of an environment plan) in relation to the plan; and
 - (b) to request in the person's comments that particular information in the comments not be published.

NOPSEMA must give titleholder copies of comments

- (2) As soon as practicable after receiving comments described in subsection (1) within the period mentioned in that subsection, NOPSEMA must give a copy of the comments to the titleholder who submitted the plan.

What titleholder must do after period for comments ends

- (3) After the end of the period mentioned in subsection (1), the titleholder who submitted the plan:
 - (a) may modify the plan; and
 - (b) must (whether the titleholder modifies the plan or not) resubmit the plan (as modified, if relevant) to NOPSEMA within 12 months after the end of that period; and
 - (c) if the titleholder received a copy of comments under subsection (2)—must, when resubmitting the plan under paragraph (b), give NOPSEMA a written statement:
 - (i) responding in general terms to the comments; and
 - (ii) indicating whether any modifications of the plan were made in response to the comments; and
 - (iii) referring to any modifications made in response to the comments.

Note: See subsection (7) for the consequences if the titleholder does not comply with paragraph (b) of this subsection.

- (4) The statement under paragraph (3)(c) must not include sensitive information relating to the plan.

NOPSEMA must publish plan and statement within 5 business days

- (5) Within 5 business days after receiving the plan under paragraph (3)(b), NOPSEMA must:
 - (a) publish it on NOPSEMA's website with the sensitive information part removed; and
 - (b) if NOPSEMA receives a statement under paragraph (3)(c) with the plan—publish the statement on NOPSEMA's website.

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NOPSEMA must consider comments in acting under section 33

- (6) In making a decision to take an action under section 33 relating to the plan, NOPSEMA:
- (a) must consider the comments (if any) described in subsection (2) of this section; and
 - (b) must not consider other comments from members of the public relating to the plan.

If plan is not resubmitted within 12 months after public comment period

- (7) If the titleholder who submitted the plan does not comply with paragraph (3)(b), the titleholder is taken for the purposes of this instrument and the *Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Regulations 2022* to have withdrawn the plan under subsection 37(1) of this instrument at the end of the 12 months mentioned in that paragraph.

Note: Subsection 37(2) requires NOPSEMA to publish notice of the withdrawal on NOPSEMA's website.

31 Seismic or exploratory drilling environment plan to be resubmitted if significantly modified

- (1) This section applies if:
- (a) the titleholder who submitted a seismic or exploratory drilling environment plan modifies it; and
 - (b) the plan, as modified, relates to:
 - (i) a significant modification or new stage of any of the seismic or exploratory drilling activities to which the plan previously related; or
 - (ii) a seismic or exploratory drilling activity to which the plan did not previously relate; and
 - (c) the modification is not made in response to comments described in subsection 30(1).

Note: Paragraph (c) may apply to a modification under subsection 30(3) if the modification is not made in response to comments.

- (2) The titleholder must resubmit the plan (as modified) to NOPSEMA.

Note: Under section 27, NOPSEMA must decide provisionally whether the resubmitted plan includes material apparently addressing all the provisions of Division 2 (Contents of an environment plan). If NOPSEMA decides provisionally that the resubmitted plan does include such material, NOPSEMA must publish the resubmitted plan and an invitation for anyone to comment on matters relating to the resubmitted plan: see sections 28 and 30.

- (3) NOPSEMA must cease to act under this Division in relation to the plan as it existed before the modification.

32 Further information

- (1) After NOPSEMA publishes an environment plan for an activity under section 28, NOPSEMA may request the titleholder who submitted the plan to provide further written information about any matter that is:
- (a) mentioned in Division 2; or

- (b) relevant to NOPSEMA determining whether it is reasonably satisfied that the plan meets the environment plan acceptance criteria.
- (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) In providing information requested by NOPSEMA, the titleholder must provide NOPSEMA the environment plan with the information incorporated, whether or not the titleholder also provides the information separately.
- (4) In making a decision on whether to accept the environment plan, NOPSEMA must have regard to information that was requested by NOPSEMA, and provided by the titleholder within the period specified or within a longer period agreed to by NOPSEMA.

33 Making decision on submitted environment plan

Initial decision

- (1) If the event described in subsection (2) occurs for an environment plan submitted by a titleholder then, subject to section 16, NOPSEMA must:
 - (a) if NOPSEMA is reasonably satisfied that the environment plan meets the environment plan acceptance criteria—decide to accept the plan; or
 - (b) if NOPSEMA is not reasonably satisfied that the environment plan meets the environment plan acceptance criteria—decide to give the titleholder written notice under subsection (5) of this section.

Note 1: Section 16 makes demonstration of financial assurance a prior condition for acceptance of an environment plan for petroleum titleholders.

Note 2: Subsection 30(6) requires NOPSEMA to consider certain public comments on a seismic or exploratory drilling environment plan in making a decision to take an action under this section.

- (2) For the purposes of subsection (1), the event is:
 - (a) if the environment plan is a seismic or exploratory drilling environment plan—NOPSEMA receives the resubmitted plan under paragraph 30(3)(b) and, if relevant, a written statement under paragraph 30(3)(c); or
 - (b) otherwise—NOPSEMA publishes the plan (with the sensitive information part removed) under section 28.
- (3) A decision on the environment plan under subsection (1) must be made:
 - (a) within 30 days after the day the event described in subsection (2) occurs; or
 - (b) if NOPSEMA is unable to make a decision within that 30 day period and, before the end of that period, notifies the titleholder in writing of a later day by which a decision will be made—no later than that day.
- (4) A failure to comply with subsection (3) does not affect the validity of NOPSEMA's decision under subsection (1).

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Notice giving opportunity to resubmit

- (5) A notice under this subsection must:
- (a) state that NOPSEMA is not reasonably satisfied that the environment plan submitted by the titleholder meets the environment plan acceptance criteria; and
 - (b) identify the environment plan acceptance criteria about which NOPSEMA is not reasonably satisfied; and
 - (c) specify a day by which the titleholder may resubmit the plan.
- (6) The day referred to in paragraph (5)(c) must give the titleholder a reasonable opportunity to modify and resubmit the plan.

Decision if plan is resubmitted

- (7) If the titleholder resubmits the plan by the day referred to in paragraph (5)(c), or a later date agreed by NOPSEMA, then, subject to section 16, NOPSEMA must:
- (a) if NOPSEMA is reasonably satisfied that the environment plan meets the environment plan acceptance criteria—decide to accept the plan; or
 - (b) if NOPSEMA is still not reasonably satisfied that the environment plan meets the environment plan acceptance criteria—decide to:
 - (i) give the titleholder a further notice under subsection (5) of this section; or
 - (ii) accept the plan in part (for a particular stage of the activity), or subject to limitations or conditions applying to operations for the activity, or both; or
 - (iii) refuse to accept the plan.

Note: Section 16 makes demonstration of financial assurance a prior condition for acceptance of an environment plan for petroleum titleholders.

- (8) A decision on the environment plan under subsection (7) must be made:
- (a) within 30 days after the plan is resubmitted; or
 - (b) if NOPSEMA is unable to make a decision within that 30 day period and, before the end of that period, notifies the titleholder in writing of a later day by which a decision will be made—no later than that day.
- (9) A failure to comply with subsection (8) does not affect the validity of NOPSEMA's decision under subsection (7).

Decision if plan is not resubmitted

- (10) If the titleholder does not resubmit the plan by the day referred to in paragraph (5)(c), or such later day as is agreed to by NOPSEMA, NOPSEMA must, subject to section 16, decide to:
- (a) do either or both of the following:
 - (i) accept the plan as previously submitted in part (for a particular stage of the activity);
 - (ii) accept the plan as previously submitted subject to limitations or conditions applying to operations for the activity; or
 - (b) refuse to accept the plan.

Note: Section 16 makes demonstration of financial assurance a prior condition for acceptance of an environment plan for petroleum titleholders.

34 Criteria for acceptance of environment plan

For the purposes of section 33, the criteria for acceptance of an environment plan (the *environment plan acceptance criteria*) for an activity 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; and
- (g) demonstrates that:
 - (i) the titleholder has carried out the consultations required by section 25; 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, this instrument and any other regulations made under the Act.

35 Notice of decision on environment plan, publication of accepted plan and submission and publication of summary

Notice to titleholder

- (1) NOPSEMA must give a titleholder who submitted an environment plan written notice of a decision by NOPSEMA under section 33 to:
 - (a) accept the environment plan for the activity; or
 - (b) accept the plan in part for a particular stage of the activity, or subject to limitations or conditions applying to operations for the activity; or
 - (c) refuse to accept the plan.

Note: For a petroleum activity, NOPSEMA must not accept the environment plan unless NOPSEMA is reasonably satisfied that the titleholder is compliant with subsection 571(2) of the Act in relation to the petroleum activity and the compliance is in a form that is acceptable to NOPSEMA (see section 16 of this instrument).

- (2) If the decision is to refuse to accept the plan, or to accept the plan in part for a particular stage of the activity, the notice must set out:
 - (a) the terms of the decision; and
 - (b) the reasons for the decision.
- (3) If the decision is to accept the plan subject to limitations or conditions, the notice must set out:

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- (a) the terms of the decision; and
- (b) the reasons for the decision; and
- (c) the limitations or conditions that are to apply to operations for the activity.

Publication of notice etc.

- (4) As soon as practicable after giving the notice of the decision to the titleholder, NOPSEMA must publish on NOPSEMA's website:
 - (a) a description of the decision; and
 - (b) if the decision was to accept the environment plan (in whole or in part)—the plan with the sensitive information part removed; and
 - (c) if:
 - (i) the environment plan is a seismic or exploratory drilling environment plan on which one or more comments described in subsection 30(2) were received (whether or not the plan was modified after the comments were made); and
 - (ii) the decision was to accept the plan (in whole or in part);a statement by NOPSEMA as to how NOPSEMA took the comments into account in making the decision.
- (5) A statement by NOPSEMA for the purposes of paragraph (4)(c) must not include sensitive information relating to the plan from the comments.

Submission of summary of accepted plan

- (6) Within 10 days after receiving notice that NOPSEMA 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 NOPSEMA for public disclosure.
- (7) The summary:
 - (a) must include the following material from the environment plan for the activity:
 - (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 of the activity;
 - (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 for the activity; and
 - (b) must be to the satisfaction of NOPSEMA.

Publication of summary

- (8) As soon as practicable after receiving the summary, NOPSEMA must publish it on NOPSEMA's website.

36 When environment plan is in force

An environment plan for an activity is in force from when NOPSEMA accepts the plan under section 33 until:

- (a) NOPSEMA accepts a revised environment plan for the activity that was submitted in accordance with Division 5; or
- (b) NOPSEMA withdraws acceptance of the environment plan under section 43; or
- (c) the operation of the environment plan ends under section 46.

37 Withdrawal of environment plan before decision

- (1) Before NOPSEMA makes a decision under section 33 to accept, or refuse to accept, an environment plan, the titleholder who submitted the plan may withdraw it by written notice given to NOPSEMA.
- (2) If NOPSEMA had published the plan (with the sensitive information part removed) before the plan was withdrawn, NOPSEMA must publish on NOPSEMA's website notice of withdrawal of the plan.

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Division 5—Revision of environment plan

38 Revision to include new activity

A titleholder may submit a revised environment plan under section 26 to include a new activity under the title (rather than submit a separate plan for the new activity).

Note 1: This is subject to NOPSEMA's approval (see subsection 26(7)) and, if the new activity is, or is part of, an offshore project, the requirements of subsections 26(3) to (5).

Note 2: It is an offence to undertake an activity under a title without an environment plan being in force for the activity (see section 17).

39 Revision because of other change, or proposed change, of circumstances or operations

Significant modification or new stage of activity

- (1) A titleholder must submit a revised environment plan under section 26 for an activity under the title 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.

Note: It is an offence to undertake an activity in a way that is contrary to the environment plan that is in force for the activity (see section 18).

New or increased environmental impact or risk

- (2) A titleholder must submit a revised environment plan under section 26 for an activity under the title before, or as soon as practicable after, the occurrence of:
- (a) any significant new environmental impact or risk, or significant increase in an existing environmental impact or risk, of the activity that is not provided for in the environment plan in force for the activity; or
 - (b) 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 of the activity; or
 - (ii) a significant increase in an existing environmental impact or risk of the activity;
- that is not provided for in the environment plan in force for the activity.

Note: An environment plan for a seismic or exploratory drilling activity submitted in accordance with this subsection is not a seismic or exploratory drilling environment plan, and so is not subject to the requirements in Division 4 for such plans: see the definition of *seismic or exploratory drilling environment plan* in section 5.

Change in titleholder

- (3) If:
- (a) there is a change in the titleholder of a title; and
 - (b) the change will result in a change in the manner in which the environmental impacts and risks of an activity under the title are managed;

the new titleholder must submit a revised environment plan for the activity under section 26 as soon as practicable after becoming the new titleholder.

40 Revision on request by NOPSEMA

- (1) NOPSEMA may request a titleholder to submit a revised environment plan under section 26 for an activity under the title.
- (2) The request must be in writing and set out the following:
 - (a) the matters to be addressed in the revised environment plan;
 - (b) the time by which the revised environment plan is to be submitted;
 - (c) the grounds for the request.
- (3) The titleholder may make a submission in writing to NOPSEMA stating the titleholder's reasons for one or more of the following:
 - (a) why a revised environment plan is not needed;
 - (b) why the revised environment plan does not need to address one or more matters identified in NOPSEMA's request or needs to address different matters;
 - (c) why a longer time should be allowed for submission of the revised environment plan.
- (4) A submission by the titleholder under subsection (3) must be made:
 - (a) within 21 days of the request being made; or
 - (b) if NOPSEMA, in writing, allows a longer period—within such longer period.
- (5) If a submission complies with subsections (3) and (4), NOPSEMA must:
 - (a) decide whether to accept one or more of the reasons stated in the submission; and
 - (b) give the titleholder notice in writing of the decision; and
 - (c) to the extent (if any) that NOPSEMA accepts the reasons, give the titleholder notice in writing that varies or withdraws the request in accordance with the decision; and
 - (d) to the extent (if any) that NOPSEMA does not accept the reasons, give the titleholder notice in writing of the grounds for not accepting them.
- (6) If a request is made by NOPSEMA to a titleholder under subsection (1) and not withdrawn, the titleholder must submit the requested revised environment plan under section 26 by the time stated in the request (as varied under paragraph (5)(c) of this section if applicable).

41 Revision at the end of each 5 years

- (1) A titleholder must submit a revised environment plan under section 26 for an activity under the title at least 14 days before the end of each consecutive period of 5 years, with the first period commencing on the latest of the following:
 - (a) the day an environment plan for the activity is first accepted by NOPSEMA under section 33;

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- (b) if a revised environment plan submitted in accordance with this section is accepted by NOPSEMA under section 33—the last day on which such a revised environment plan is accepted;
 - (c) if NOPSEMA gives the titleholder a notice under subsection (2) of this section—the day specified in the notice.
- (2) If the titleholder submits a revised environment plan in accordance with section 38, 39 or 40, NOPSEMA may notify the titleholder that the period of 5 years mentioned in subsection (1) of this section starts on a day specified in the notice. The day must be later than the last day to which paragraph (1)(a) or (b) applies.

42 Existing environment plan continues in force if revised plan not accepted

To avoid doubt, if a revised environment plan for an activity submitted in accordance with this Division is not accepted, the environment plan in force for the activity remains in force, subject to the Act and this instrument (in particular, the provisions of Division 6).

Division 6—Withdrawing acceptance of environment plan

43 Withdrawing acceptance of environment plan

- (1) NOPSEMA may, by written notice given to the titleholder, withdraw the acceptance of the environment plan for an activity under a title on any of the following grounds:
 - (a) the titleholder has not complied with:
 - (i) a provision of the Act relating to environmental requirements; or
 - (ii) a direction given by NOPSEMA under section 574, 576B, 579A, 586 or 591B of the Act; or
 - (iii) a direction given by the responsible Commonwealth Minister under section 580 or 592 of the Act;
 - (b) the titleholder has not complied with section 18, 19, 39, 40 or 41 or subsection 51(1) of this instrument;
 - (c) NOPSEMA has refused to accept a revised environment plan for the activity;
 - (d) NOPSEMA is not reasonably satisfied, after 2 or more requests under subsection 51(2) of this instrument for the titleholder to modify a report on environmental performance, that the titleholder has given NOPSEMA sufficient information to enable NOPSEMA to determine whether the environmental performance outcomes and environmental performance standards in the environment plan have been met;
 - (e) if the activity is a petroleum activity—the titleholder has failed to maintain compliance with subsection 571(2) of the Act, in a form acceptable to NOPSEMA, in relation to the activity.
- (2) A notice under subsection (1) must set out the reasons for the withdrawal.

44 Steps to be taken before withdrawing acceptance

- (1) Before withdrawing the acceptance of an environment plan for an activity under a title NOPSEMA must comply with subsections (2), (4) and (5).
- (2) NOPSEMA must give the titleholder at least 30 days notice, in writing, of NOPSEMA's intention to withdraw acceptance of the plan.
- (3) NOPSEMA may give a copy of the notice to such other persons (if any) as NOPSEMA thinks fit.
- (4) NOPSEMA must specify in the notice a day by which the titleholder (or any other person to whom a copy of the notice has been given) may submit to NOPSEMA, in writing, any matters for NOPSEMA to take into account in deciding whether to withdraw the acceptance of the environment plan.
- (5) In deciding whether to withdraw the acceptance of the environment plan, NOPSEMA must take into account:
 - (a) any action taken by the titleholder to remove the ground for withdrawal of acceptance, or to prevent the recurrence of that ground; and

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- (b) any matter submitted to NOPSEMA before the day specified in the notice by:
 - (i) the titleholder; or
 - (ii) if another person is given a copy of the notice under subsection (3)—that other person.

45 Withdrawal of acceptance not affected by other provisions

- (1) NOPSEMA may withdraw the acceptance of an environment plan for an activity under a title on the ground that the titleholder has not complied with a provision of the Act, or with a section of this instrument mentioned in paragraph 43(1)(b), even though the titleholder has been convicted of an offence by reason of the failure to comply with that provision.
- (2) If NOPSEMA withdraws the acceptance of an environment plan for an activity under a title on the ground that the titleholder has not complied with a provision of the Act, or of a section of this instrument mentioned in paragraph 43(1)(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.

Division 7—End of environment plan

46 Plan ends when titleholder notifies completion

The operation of an environment plan for an activity or activities under a title ends when:

- (a) the titleholder notifies NOPSEMA 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) NOPSEMA accepts the notification.

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Part 5—Incidents, reports and records

47 Notifying reportable incidents

- (1) A titleholder commits an offence of strict liability if:
 - (a) the titleholder undertakes an activity under the title; and
 - (b) there is a reportable incident for the activity; and
 - (c) the titleholder does not notify NOPSEMA of the reportable incident in accordance with subsection (2).

Penalty: 40 penalty units.

- (2) For the purposes of paragraph (1)(c), the notification:
 - (a) must be given as soon as practicable, and in any case not later than 2 hours, after:
 - (i) the first occurrence of the reportable incident; or
 - (ii) if the reportable incident was not detected by the titleholder at the time of the first occurrence—the time the titleholder becomes aware of the reportable incident; and
 - (b) must be oral; and
 - (c) must include:
 - (i) all material facts and circumstances concerning the reportable incident that the titleholder knows or is able, by reasonable search or enquiry, to find out; and
 - (ii) any action taken to avoid or mitigate any adverse environmental impacts of the reportable incident; and
 - (iii) the corrective action that has been taken, or is proposed to be taken, to stop, control or remedy the reportable incident.
- (3) As soon as practicable after the titleholder notifies a reportable incident, the titleholder must give a written record of the notification to:
 - (a) NOPSEMA; and
 - (b) the Titles Administrator; and
 - (c) if the incident occurred in the offshore area of a State—the Department of the responsible State Minister; and
 - (d) if the incident occurred in the Principal Northern Territory offshore area—the Department of the responsible Northern Territory Minister.
- (4) The titleholder is not required to include in the record anything that was not included in the notification.

48 Written report of reportable incidents

- (1) A titleholder commits an offence of strict liability if:
 - (a) the titleholder undertakes an activity under the title; and
 - (b) there is a reportable incident for the activity; and
 - (c) the titleholder does not give NOPSEMA a written report of the reportable incident in accordance with subsection (2).

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Penalty: 40 penalty units.

- (2) For the purposes of paragraph (1)(c), the report:
 - (a) must be given as soon as practicable, and in any case:
 - (i) not later than 3 days after the first occurrence of the reportable incident; or
 - (ii) if NOPSEMA specifies, within 3 days after the first occurrence of the reportable incident, another period within which the report must be provided—within that period; and
 - (b) must include:
 - (i) all material facts and circumstances concerning the reportable incident that the titleholder knows or is able, by reasonable search or enquiry, to find out; and
 - (ii) any action taken to avoid or mitigate any adverse environmental impacts of the reportable incident; and
 - (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.
- (3) Within 7 days after giving a written report of a reportable incident to NOPSEMA, the titleholder must give a copy of the report to:
 - (a) the Titles Administrator; and
 - (b) if the incident occurred in the offshore area of a State—the Department of the responsible State Minister; and
 - (c) if the incident occurred in the Principal Northern Territory offshore area—the Department of the responsible Northern Territory Minister.

49 Additional written reports if requested

- (1) This section applies if a titleholder notifies a reportable incident in accordance with section 47.
- (2) NOPSEMA 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 section 48.
- (3) The notice must:
 - (a) describe the information to be included in a report or the matters to be addressed; and
 - (b) specify when the report must be given to NOPSEMA by.
- (4) The day or time specified for giving the report by must give the titleholder a reasonable time to prepare the report.
- (5) A titleholder commits an offence of strict liability if:
 - (a) the titleholder is given a notice under subsection (2) in relation to a reportable incident; and
 - (b) the titleholder does not submit a written report of the reportable incident in accordance with the notice.

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Penalty: 40 penalty units.

50 Reporting recordable incidents

- (1) A titleholder commits an offence of strict liability if:
 - (a) the titleholder undertakes an activity under the title; and
 - (b) there is a recordable incident for the activity; and
 - (c) the titleholder does not give NOPSEMA a written report of the recordable incident in accordance with subsection (2).

Penalty: 40 penalty units.

- (2) For the purposes of paragraph (1)(c), the report:
 - (a) must relate to a calendar month; and
 - (b) must be given as soon as practicable after the end of the calendar month to which the report relates, and in any case not later than 15 days after the end of the calendar month; and
 - (c) must include:
 - (i) a record of all recordable incidents that occurred during the calendar month; and
 - (ii) all material facts and circumstances concerning the recordable incidents that the titleholder knows or is able, by reasonable search or enquiry, to find out; and
 - (iii) any action taken to avoid or mitigate any adverse environmental impacts of the recordable incidents; and
 - (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.

51 Reporting environmental performance

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

Note: Subsection 22(7) requires an environment plan to state when the titleholder will submit reports.

- (2) If NOPSEMA is not reasonably satisfied that a report is sufficient to enable NOPSEMA to determine whether the environmental performance outcomes and environmental performance standards in the environment plan have been met, NOPSEMA may request the titleholder to modify the report.
- (3) The request must:
 - (a) be in writing; and
 - (b) identify the reasons NOPSEMA is not reasonably satisfied with the report.

Note: If NOPSEMA is still not reasonably satisfied after 2 or more requests for a modified report, NOPSEMA may withdraw acceptance of the environment plan (see paragraph 43(1)(d)).

52 Storage of records*Environment plan*

- (1) A titleholder must store an environment plan for an activity under the title, in a way that makes retrieval of the environment plan reasonably practicable, during the following periods:
 - (a) when the environment plan is in force for the activity;
 - (b) for 5 years beginning on the day that the environment plan ceases to be in force for the activity.
- (2) A titleholder commits an offence of strict liability if the titleholder does not comply with subsection (1).

Penalty: 30 penalty units.

Records and reports required under provisions of this instrument

- (3) A titleholder must store the following documents, in a way that makes retrieval of the document reasonably practicable, for a period of 5 years beginning on the day the document is given or submitted to NOPSEMA:
 - (a) a written record of a notification by the titleholder under section 47;
 - (b) a written report given or submitted by the titleholder under section 48, 49, 50 or 51.
- (4) A titleholder commits an offence of strict liability if the titleholder does not comply with subsection (3).

Penalty: 30 penalty units.

Other records and reports

- (5) A titleholder commits an offence of strict liability if the titleholder:
 - (a) creates a record or report mentioned in subsection (7); and
 - (b) either:
 - (i) does not store the record or report; or
 - (ii) stores the record or report in a way that does not make retrieval of the record or report reasonably practicable.

Penalty: 30 penalty units.

- (6) Subsection (5) does not apply if the failure to store the record or report, or failure to store it in a way that makes retrieval reasonably practicable, occurs more than 5 years after the day that the record or report was created.

Note: A defendant bears an evidential burden in relation to the matter in subsection (6) (see subsection 13.3(3) of the *Criminal Code*).

- (7) For the purposes of paragraph (5)(a), the records and reports are the following:
 - (a) records relating to environmental performance, or the implementation strategy, under the environment plan in force for an activity under the title;

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- (b) records of emissions and discharges into the environment made in accordance with the environment plan in force for an activity under the title;
- (c) records of calibration and maintenance of monitoring devices used in accordance with the environment plan in force for an activity under the title;
- (d) written reports (including monitoring, audit and review reports) about environmental performance, or about the implementation strategy, under the environment plan in force for an activity under the title.

53 Making records available

- (1) This section applies in relation to a document or other record that section 52 requires a titleholder to store, during the period that storage is required under that section.
- (2) The titleholder must make a copy of the document or record available to any of the following persons, on request in writing by the person:
 - (a) NOPSEMA;
 - (b) a NOPSEMA inspector;
 - (c) a Greater Sunrise visiting inspector.
- (3) If the person making the request states that a copy of the document or record be made available to an agent of the person, the titleholder must make the copy available to the agent.
- (4) However, if the titleholder:
 - (a) requests a person who is a NOPSEMA inspector to produce written evidence of the person's appointment as a NOPSEMA inspector; or
 - (b) requests a person who is a Greater Sunrise visiting inspector to produce written evidence of the person's appointment as a Greater Sunrise visiting inspector; or
 - (c) requests a person who is an agent to produce written evidence of the person's appointment as an agent;the titleholder is not required to make a copy of the document or record available unless the person produces the evidence to the titleholder.
- (5) The copy of the document or record must be made available:
 - (a) in the case of an emergency relating to an activity—as soon as possible at any time of the day or night on any day during the emergency; or
 - (b) in any other case—during normal business hours on a business day in the place where the document or record is kept.
- (6) The copy of the document or record must be made available at the place where the document or record is kept or another place agreed between the titleholder and the person making the request (or the person's agent). The document may be made available at another place by means of electronic transmission.
- (7) If the document or record is stored on a computer, the copy must be made available in hard copy or, if the titleholder and the person making the request (or the person's agent) so agree, in electronic form.

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- (8) A titleholder commits an offence of strict liability if the titleholder:
- (a) is given a request in accordance with this section; and
 - (b) does not comply with the request.

Penalty: 30 penalty units.

Part 6—Miscellaneous

Division 1—Information requirements

54 Notifying start and end of activity

- (1) A titleholder must give NOPSEMA written notice that an activity under the title is to commence at least 10 days before the activity commences.
- (2) A titleholder must give NOPSEMA written notice that an activity under the title has ended no later than 10 days after the activity ends.

55 Notifying certain operations to State or Territory

- (1) A titleholder commits an offence of strict liability if:
 - (a) the titleholder commences a drilling activity or a seismic survey under the title in the offshore area of a State; and
 - (b) the titleholder did not notify the proposed date of commencement to the Department of the responsible State Minister before commencing the activity.

Penalty: 30 penalty units.

- (2) A titleholder commits an offence of strict liability if:
 - (a) the titleholder commences a drilling activity or a seismic survey under the title in the Principal Northern Territory offshore area; and
 - (b) the titleholder did not notify the proposed date of commencement to the Department of the responsible Northern Territory Minister before commencing the activity.

Penalty: 30 penalty units.

56 Titleholder may refer to information previously given

- (1) If:
 - (a) a titleholder is required, under this instrument, to give NOPSEMA information or include information in a document; and
 - (b) the same information has previously been given to NOPSEMA for another purpose under the Act, this instrument or any other regulations made under the Act;the titleholder may comply with the requirement to give or include the information by referring NOPSEMA to the information previously given.
- (2) Subsection (1) does not apply if NOPSEMA tells the titleholder that the information is no longer available to NOPSEMA.
- (3) Subsection (1) does not apply to a requirement to include information in an environment plan unless:
 - (a) the information is publicly available; and

- (b) the plan includes a link or other reference to the place where the information is published.
- (4) If NOPSEMA has power to assess whether information is adequate, appropriate or sufficient for a purpose, NOPSEMA is not required to accept that information is adequate, appropriate or sufficient for a purpose different from the one for which it was originally given.

Division 2—Fees

57 Offshore project proposals

(1) For the purposes of subsection 685(1) of the Act, a fee is payable to NOPSEMA by a person who submits an offshore project proposal for the consideration of the offshore project proposal in accordance with Part 2 of this instrument.

(2) The fee is the total amount of the expenses incurred by NOPSEMA in considering the proposal.

Note: Consideration of an offshore project proposal would ordinarily end with a decision whether to accept the proposal. However, the process may end before that point (for example, if the proposal is withdrawn). In such a case, the fee will represent the expenses in considering the proposal to whatever point is reached.

(3) The fee is due and payable in accordance with the terms of the invoice for the fee.

Note: It is expected that NOPSEMA 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.

58 Financial assurance assessments

(1) For the purposes of subsection 685(1) of the Act, a fee is payable to NOPSEMA by a petroleum titleholder if NOPSEMA assesses financial assurance arrangements, proposed by the titleholder in relation to a petroleum activity, for the purposes of section 16 of this instrument.

(2) The fee is the total of the expenses incurred by NOPSEMA in assessing the financial assurance arrangements.

(3) The fee is due and payable in accordance with the terms of the invoice for the fee.

Note: It is expected that NOPSEMA and the titleholder will agree on the terms of payment of the fee. The invoice will state the terms, whether or not there is an agreement.

Division 3—Application of this instrument if remedial direction is in force

59 Application of this instrument if remedial direction is in force

- (1) This section applies if:
 - (a) a direction (a ***petroleum remedial direction***) is in force under section 586, 586A, 587 or 587A of the Act; or
 - (b) a direction (a ***greenhouse gas remedial direction***) is in force under section 591B, 592, 594A or 595 of the Act.
- (2) This instrument applies as follows:
 - (a) as if a reference to a petroleum titleholder included a reference to a person who is subject to a petroleum remedial direction;
 - (b) as if a reference to a titleholder included a reference to a person who is subject to a petroleum remedial direction or a greenhouse gas remedial direction;
 - (c) as if a reference to a petroleum activity under a petroleum title included a reference to an activity carried out for the purpose of complying with a petroleum remedial direction;
 - (d) as if a reference to an activity under a title included a reference to an activity carried out for the purpose of complying with a petroleum remedial direction or a greenhouse gas remedial direction.
- (3) However, subsection (2) does not apply to the following definitions in section 5:
 - (a) definition of ***activity***;
 - (b) definition of ***petroleum activity***;
 - (c) definition of ***petroleum titleholder***;
 - (d) definition of ***titleholder***.

Part 7—Application, saving and transitional provisions

Division 1—Application provisions relating to repeal of the Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2009

60 Definitions for Division

In this Division:

commencement day means the day this instrument commences.

old Regulations means the *Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2009*.

61 Offshore project proposal accepted before commencement day

If an offshore project proposal was accepted by the Regulator under regulation 5D of the old Regulations, it is taken to have been accepted by NOPSEMA under section 13 of this instrument.

62 Offshore project proposal submitted before commencement day but no decision made

- (1) This section applies in relation to an offshore project proposal if:
 - (a) the proposal was submitted to the Regulator under the old Regulations before the commencement day; and
 - (b) the Regulator had not decided before the commencement day to either accept the proposal or refuse to accept the proposal; and
 - (c) the proponent had not withdrawn the proposal before the commencement day.

Submission of proposal

- (2) If the proposal was submitted to the Regulator under regulation 5A of the old Regulations, it is taken to have been submitted to NOPSEMA under section 6 of this instrument.
- (3) If the offshore project proposal was submitted to the Regulator under subregulation 5F(2) of the old Regulations, it is taken to have been submitted to NOPSEMA under subsection 15(2) of this instrument.

Request for further information after submission

- (4) If:
 - (a) the Regulator made a request for further information to the proponent under regulation 5B of the old Regulations; and

(b) the proponent had not provided the information before the commencement day; and

(c) the period for providing the information had not ended before the commencement day;

the request is taken to have been made by NOPSEMA under section 8 of this instrument.

Notice inviting public comment on proposal

- (5) If the Regulator published a notice in relation to the offshore project proposal under paragraph 5C(3)(b) of the old Regulations, the notice is taken to have been published by NOPSEMA under paragraph 9(5)(b) of this instrument.

Resubmission of proposal after public comment

- (6) If the proponent gave the Regulator another copy of the proposal in accordance with paragraph 5D(1)(b) of the old Regulations, the proponent is taken to have resubmitted the proposal to NOPSEMA in accordance with paragraph 11(b) of this instrument.
- (7) If the proponent gave the Regulator the material mentioned in paragraph 5D(1)(c) of the old Regulations, the proponent is taken to have given that material to NOPSEMA in accordance with paragraph 11(c) of this instrument.

Request for further information after resubmission

- (8) If:
- (a) the Regulator made a request for further information to the proponent under subregulation 5D(2) of the old Regulations; and
 - (b) the proponent had not provided the information before the commencement day; and
 - (c) the period for providing the information had not ended before the commencement day;
- the request is taken to have been made by NOPSEMA under section 12 of this instrument.

63 Environment plan in force immediately before commencement day

- (1) If an environment plan for an activity was in force under the old Regulations immediately before the commencement day, the plan continues to be in force under this instrument.
- (2) The plan is taken to have been accepted by NOPSEMA on the day it was accepted by the Regulator under the old Regulations.
- (3) Any limitation or condition that applied to operations for the activity under the old Regulations is taken to be a limitation or condition to which acceptance of the plan was made subject under section 33 of this instrument.
- (4) If, immediately before the commencement day, the titleholder had the consent in writing of the Regulator under subregulation 7(2) of the old Regulations to

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undertake the activity in a particular way, the consent is taken to have been given by NOPSEMA under subsection 18(2) of this instrument.

64 Request to revise environment plan

If:

- (a) under subregulation 18(1) of the old Regulations, the Regulator had requested a titleholder to submit a proposed revision of the environment plan for an activity; and
 - (b) the titleholder had not submitted a proposed revision of the environment plan before the commencement day; and
 - (c) the request had not been withdrawn before the commencement day;
- the request is taken to be a request by NOPSEMA under subsection 40(1) of this instrument for the titleholder to submit a revised environment plan for the activity.

65 Revision of environment plan at the end of each 5 years

- (1) If a proposed revision of an environment plan for an activity was submitted to the Regulator under regulation 19 of the old Regulations, it is taken to be a revised environment plan for the activity submitted to NOPSEMA in accordance with section 41 of this instrument.
- (2) If the Regulator notified a titleholder under subregulation 19(2) of the old Regulations of the date on which a period of 5 years starts in relation to an activity, NOPSEMA is taken to have given the titleholder a notice under subsection 41(2) of this instrument specifying that date as the day on which a period of 5 years starts in relation to the activity.

66 Environment plan submitted before commencement day but no decision made

- (1) This section applies in relation to an environment plan (including a proposed revision of an environment plan in the form of a revised environment plan) if:
 - (a) the plan was submitted to the Regulator under the old Regulations before the commencement day; and
 - (b) the Regulator had not decided before the commencement day to either accept the plan or refuse to accept the plan; and
 - (c) the titleholder who submitted the plan had not withdrawn it before the commencement day.

Submission and checking completeness

- (2) The environment plan is taken to have been submitted to NOPSEMA under section 26 of this instrument.
- (3) If the Regulator published the plan under regulation 9AB of the old Regulations, the plan is taken to have been published under section 28 of this instrument.

- (4) If the Regulator gave the titleholder a notice under regulation 9AC of the old Regulations, the notice is taken to have been given by NOPSEMA under section 29 of this instrument.

Public comments on seismic or exploratory drilling environment plan

- (5) If the Regulator published an invitation under subregulation 11B(1) of the old Regulations, the invitation is taken to have been published by NOPSEMA under subsection 30(1) of this instrument.
- (6) If the titleholder resubmitted the plan to the Regulator in accordance with paragraph 11B(3)(b) of the old Regulations, the titleholder is taken to have resubmitted the plan to NOPSEMA in accordance with paragraph 30(3)(b) of this instrument.
- (7) If the titleholder gave the Regulator a written statement in accordance with paragraph 11B(3)(c) of the old Regulations, the titleholder is taken to have given NOPSEMA the statement in accordance with paragraph 30(3)(c) of this instrument.
- (8) If the titleholder resubmitted the plan to the Regulator under subregulation 11C(2) of the old Regulations, the titleholder is taken to have resubmitted the plan to NOPSEMA under subsection 31(2) of this instrument.

Request for further information

- (9) If:
- (a) the Regulator made a request for further information to the titleholder under regulation 9A of the old Regulations; and
 - (b) the titleholder had not provided the information before the commencement day; and
 - (c) the period for providing the information had not ended before the commencement day;
- the request is taken to have been made by NOPSEMA under section 32 of this instrument.

Notice giving opportunity to resubmit

- (10) If the Regulator gave the titleholder a notice under subregulation 10(2) of the old Regulations, the notice is taken to have been given by NOPSEMA under subsection 33(5) of this instrument.

Sensitive information

- (11) Information given in relation to the environment plan before the commencement day that is sensitive information within the meaning of the old Regulations is taken to be sensitive information within the meaning of this instrument.

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67 Withdrawing acceptance of environment plan

- (1) Subsection 43(1) of this instrument applies as if the grounds for withdrawing acceptance of an environment plan include the ground that the titleholder has not complied with regulation 7, 8, 17, 18 or 19 of the old Regulations.

Note: Non-compliance with these provisions was a ground for withdrawing acceptance under paragraph 23(2)(b) of the old Regulations.

- (2) If:
- (a) the Regulator gave a notice under subregulation 24(2) of the old Regulations of the Regulator's intention to withdraw acceptance of an environment plan for an activity; and
 - (b) the Regulator had not, before the commencement day, made a decision whether to withdraw acceptance of the environment plan;
- the notice is taken to have been given by NOPSEMA under subsection 44(2) of this instrument.

68 End of environment plan

- If:
- (a) a titleholder notified the Regulator under regulation 25A of the old Regulations in relation to an environment plan for an activity; and
 - (b) the Regulator had not accepted the notification before the commencement day;
- the titleholder is taken to have notified NOPSEMA under section 46 of this instrument in relation to the environment plan for the activity.

69 Requirements in relation to incidents

- (1) Despite the repeal of regulations 26, 26A and 26AA of the old Regulations, those provisions continue to apply in relation to a reportable incident (within the meaning of the old Regulations) that occurred before the commencement day.
- (2) Despite the repeal of regulation 26B of the old Regulations, that provision continues to apply in relation to a recordable incident (within the meaning of the old Regulations) that occurred before the commencement day.

70 Reporting on environmental performance

- (1) If:
- (a) the Regulator made a request under regulation 26C of the old Regulations for a titleholder to modify a report; and
 - (b) the titleholder had not submitted a modified report as requested before the commencement day;
- the request is taken to have been made by NOPSEMA under section 51 of this instrument.
- (2) Section 51 of this instrument does not apply in relation to an environment plan if the plan was in force before 28 February 2014 or was submitted to the Regulator before that date, and:

- (a) no revision of the plan was accepted by the Regulator after that date; or
- (b) any revision of the plan that was accepted by the Regulator after that date was submitted to the Regulator before that date.

71 Storage of records

- (1) Subsection 52(1) of this instrument applies in relation to an environment plan for an activity that ceased to be in force before the commencement day.

Note: The subsection requires an environment plan to be stored for 5 years beginning on the day that it ceases to be in force.

- (2) Subsection 52(3) of this instrument also applies:
 - (a) to a written record of a notification under regulation 26 of the old Regulations as if it were a written record of a notification under section 47 of this instrument; and
 - (b) to a written report submitted under regulation 26A of the old Regulations as if it were a written report given under section 48 of this instrument; and
 - (c) to a written report submitted under regulation 26AA of the old Regulations as if it were a written report submitted under section 49 of this instrument; and
 - (d) to a written report submitted under regulation 26B of the old Regulations as if it were a written report given under section 50 of this instrument; and
 - (e) to a written report submitted under regulation 26C of the old Regulations as if it were a written report submitted under section 51 of this instrument.
- (3) Subsection 52(5) of this instrument applies in relation to records and reports created before, on or after the commencement day.
- (4) If:
 - (a) a request was made for copies of records under regulation 28 of the old Regulations; and
 - (b) the request related to a document or record that section 52 of this instrument requires a titleholder to store; and
 - (c) the period during which storage of the document or record is required under section 52 of this instrument had not ended before the commencement day; and
 - (d) the requested copies were not made available before the commencement day;the request is taken to have been made under section 53 of this instrument.

72 Notifying end of activity

Subsection 54(2) of this instrument also applies in relation to an activity that ended before the commencement day if the titleholder for the activity had not, before the commencement day, given the Regulator a notice under subregulation 29(2) of the old Regulations.