



# Offshore Petroleum and Greenhouse Gas Storage (Greenhouse Gas Injection and Storage) Regulations 2023

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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: 23 November 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 (Greenhouse Gas Injection and Storage) 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 3 months beginning on the day this instrument is registered.	24 February 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Note: This table relates only to the provisions of this instrument as originally made.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 Simplified outline of this instrument

This instrument deals with the following:

- (a) determining whether there is a significant risk that an operation carried on under a permit, lease or licence will have a significant adverse impact on other operations;
- (b) applications for declarations of parts of geological formations as identified greenhouse gas storage formations;
- (c) site plans in relation to identified greenhouse gas storage formations;
- (d) reporting about events, known as reportable incidents, in relation to identified greenhouse gas storage formations;
- (e) information that the responsible Commonwealth Minister may make publicly available;
- (f) enforcement of the provisions of this instrument.

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**5 Definitions**

Note: A number of expressions used in this instrument are defined in the Act, including the following:

- (a) approved site plan;
- (b) eligible greenhouse gas storage formation;
- (c) fundamental suitability determinants;
- (d) geological formation;
- (e) greenhouse gas injection licence;
- (f) identified greenhouse gas storage formation;
- (g) serious situation;
- (h) spatial extent.

(1) In this instrument:

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

***applicant***:

- (a) for Part 3 and Schedule 1 of this instrument—has the same meaning as in section 312 or 312A (as applicable) of the Act; and
- (b) for Part 4 and Schedule 2 of this instrument—has the same meaning as in section 361, 368A or 369 (as applicable) of the Act.

***decision-maker*** means:

- (a) for the purposes of making a determination in accordance with section 25, 27, 27A, 28, 28A or 29 of the Act—the responsible Commonwealth Minister; or
- (b) for the purposes of making a determination in accordance with section 26 of the Act—the Joint Authority.

***licence application*** means an application under section 361, 368A or 369 of the Act for the grant of a greenhouse gas injection licence.

***long-term bond rate*** means the average (expressed as a decimal rounded to 4 decimal places) of the capital market yields on Commonwealth Government 10 year bonds for the latest available 12 months, as published by the Reserve Bank of Australia.

***main operation***, for the purposes of making a determination in accordance with a SROSAI section, means an operation for which the question of whether there is a significant risk that the operation will have a significant adverse impact on other operations or recovery must be determined.

Note: Depending on the relevant section of the Act, and the other section of the Act for which the question is being determined, the main operation may be a specific proposed operation (see for example section 25 of the Act together with section 100 of the Act), or there may be a range of possible operations for which the question must be determined (see for example section 26 of the Act together with section 171 of the Act).

***potentially affected operations***, for the purposes of making a determination in accordance with a SROSAI section, means operations or recovery, of a kind mentioned in the section, that a main operation could have an adverse impact on.

***potentially affected title*** means any of the following (whether existing or future) under which, for the purposes of making a determination in accordance with a SROSAI section, potentially affected operations are being, or could be, carried on:

- (a) a greenhouse gas assessment permit;
- (b) a greenhouse gas holding lease;
- (c) a greenhouse gas injection licence;
- (d) a petroleum exploration permit;
- (e) a petroleum retention lease;
- (f) a petroleum production licence;
- (g) a State/Territory petroleum exploration title;
- (h) a State/Territory petroleum retention title;
- (i) a State/Territory petroleum production title.

***proposed licence area***, for a licence application, means the block or blocks specified in the application.

***proposed operations***, for a draft site plan that is required to accompany a licence application, means the operations that will be authorised by the licence.

Note: For the requirement for draft site plans to accompany licence applications, see subsections 361(10), 368A(9) and 369(9) of the Act.

***reportable incident***: see section 49.

***responsible State/Territory Minister***, for a reportable incident, means:

- (a) if the incident occurred in the offshore area of a State—the responsible State Minister in relation to the State; or
- (b) if the incident occurred in the Principal Northern Territory offshore area—the responsible Northern Territory Minister.

***SROSAI section***: each of sections 25, 26, 27, 27A, 28, 28A and 29 of the Act is a SROSAI section.

*Spatial extent of eligible greenhouse gas storage formations*

- (2) For the purposes of paragraph 21(5)(b) of the Act, in determining the spatial extent of an eligible greenhouse gas storage formation, the expected migration pathway or pathways of the particular greenhouse gas substance injected as mentioned in whichever of paragraph 21(1)(a) or (b) of the Act is applicable are to be ascertained on the basis of the level of probability specified as the probability of occurrence in subclause 6(1) of Schedule 1 to this instrument.

## **6 References to declarations under sections 312 and 312A of the Act**

If a declaration in force under section 312 or 312A of the Act is varied under section 313 of the Act, a reference in this instrument to the declaration is a reference to the declaration as varied.

## Part 2—Significant risk of a significant adverse impact

### 7 Simplified outline of this Part

This Part sets out how to determine whether there is a significant risk that an operation carried on under a permit, lease or licence will have a significant adverse impact on other operations. The Act includes a number of provisions that require a decision-maker to consider this question.

The decision-maker must give affected parties notice of an intended determination and invite them to make a submission.

### 8 Purpose of this Part

This Part prescribes, for the purposes of each SROSAI section:

- (a) the manner for determining whether there is a significant risk that an operation or operations will have a significant adverse impact on other operations or the commercial viability of the recovery of petroleum; and
- (b) costs; and
- (c) the probability-weighted impact cost of operations; and
- (d) the threshold amount.

### 9 Manner of determining whether there is significant risk of significant adverse impact

*Manner—comparison of probability-weighted impact cost to potential economic value*

- (1) For the purposes of subsections 25(1), 26(1), 27(1), 27A(1), 28(1), 28A(1) and 29(1) of the Act, there is a significant risk of a main operation having a significant adverse impact on potentially affected operations that are being, or could be, carried on under a potentially affected title if the probability-weighted impact cost of the main operation (determined in accordance with subsection (2)) is at least 00.15% of the potential economic value of the potentially affected operations (determined in accordance with subsection (5)).

Note: Each SROSAI section imposes limitations on:

- (a) when an operation is considered to have an adverse impact on other operations; and
- (b) when the risk of an adverse impact can be treated as significant; and
- (c) when an adverse impact can be treated as significant.

*Probability-weighted impact cost of main operation*

- (2) For the purposes of subsections 25(6), 26(6), 27(6), 27A(6), 28(6), 28A(6) and 29(6) of the Act, the probability-weighted impact cost of a main operation is determined by applying statistical techniques that are appropriate to risk

assessment to the probability-weighted impact costs determined under subsection (3) of events that could occur as a result of the main operation.

*Probability-weighted impact cost of events*

- (3) The probability-weighted impact cost of an event that could occur as the result of a main operation and that, if it occurred, could have an adverse impact on potentially affected operations that are being, or could be, carried on under a potentially affected title is to be determined by:
- (a) estimating the probability of the event occurring and having an adverse impact; and
  - (b) estimating the loss in potential economic value in relation to the potentially affected operations if the event occurred and had an adverse impact; and
  - (c) multiplying the estimated probability by the estimated loss in potential economic value.
- (4) For the purposes of paragraph (3)(a), an estimate of the probability of having an adverse impact on potentially affected operations that are not currently being carried on must take into account the probability of the operations being carried on in the future.

*Potential economic value of potentially affected operations*

- (5) The potential economic value of potentially affected operations that are being, or could be, carried on under a potentially affected title is to be determined by estimating:
- (a) in relation to petroleum operations—the net present value of future cashflows from a petroleum resource, taking into account the amount of petroleum projected to be recoverable, the projected production profile, projected petroleum prices and projected costs of recovery and any other relevant matters; or
  - (b) in relation to greenhouse gas operations—the net present value of future cashflows from greenhouse gas injection, taking into account the amount of greenhouse gas projected to be stored, the projected injection profile, projected carbon prices and projected costs of storage and any other relevant matters.

*Discounting rate for future values and losses in value*

- (6) Estimates of the potential economic value of potentially affected operations under subsection (5), and of the loss in value under subsection (3), are to be adjusted to present values using a discount rate equal to the long-term bond rate plus 5%.

## 10 Prescribed costs

For the purposes of subsections 25(5), 26(5), 27(5), 27A(5), 28(5), 28A(5) and 29(5) of the Act, the following costs are prescribed (whether as capital costs or operating costs):

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- (a) any costs incurred in analysing possible impacts of a main operation on potentially affected operations;
- (b) any costs incurred in developing or providing other information in relation to the making of a determination in accordance with a SROSAI section.

### 11 Threshold amount

- (1) For the purposes of subsections 25(6), 26(6), 27(6), 27A(6), 28(6), 28A(6) and 29(6) of the Act, the threshold amount on a day is:

$$\$7,000,000 \times \frac{\text{Most recent GDP deflator}}{\text{Commencement GDP deflator}}$$

where:

**commencement GDP deflator** is the sum of the index numbers for the last 4 quarters before the commencement of this instrument.

**index number**, for a quarter, means the Implicit Price Deflator for Expenditure on Gross Domestic Product published by the Australian Statistician for that quarter.

**most recent GDP deflator** is the sum of the index numbers for the most recent 4 quarters for which index numbers have been published.

- (2) Amounts are to be worked out under this section:
- (a) using only the index numbers published in terms of the most recently published index reference period for the Implicit Price Deflator for Expenditure on Gross Domestic Product; and
  - (b) disregarding index numbers published in substitution for previously published index numbers (except where the substituted numbers are published to take account of changes in the index reference period).

### 12 Notice of intended determination

- (1) Before making a determination in accordance with a SROSAI section, the decision-maker must give the following a notice in writing of the decision-maker's intended determination:
- (a) for an intended determination in accordance with section 25, 27, 27A or 29 of the Act—the registered holder of the title under which the main operation or operations are being, or could be, carried on;
  - (b) for an intended determination in accordance with section 26 of the Act—the applicant for the petroleum production licence;
  - (c) for an intended determination in accordance with section 28 or 28A of the Act—the applicant for the greenhouse gas injection licence;
  - (d) the registered holder of each existing title that is a potentially affected title;
  - (e) for an intended determination in accordance with section 27A or 28A of the Act—the holder of each existing State/Territory petroleum exploration title, State/Territory petroleum retention title or State/Territory petroleum production title that is a potentially affected title;

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- (f) a person covered by subsection (2).
- (2) If:
- (a) the intended determination is required by any of the following provisions of the Act:
- (i) subsection 100(6);
  - (ii) subsection 137(6);
  - (iii) subsection 163(6);
  - (iv) subparagraph 171(1)(d)(ii);
  - (v) subparagraph 173(6)(b)(ii);
  - (vi) subsection 292(6);
  - (vii) subsection 292A(6);
  - (viii) subsection 321(6);
  - (ix) subsection 321A(6);
  - (x) paragraph 362(1)(c) or (e);
  - (xi) paragraph 362(2)(c) or (e);
  - (xii) paragraph 368B(1)(c), (f) or (g);
  - (xiii) paragraph 368B(2)(c), (f) or (g);
  - (xiv) paragraph 370(d) or (f); and
- (b) a future potentially affected title is referred to in the provision; and
- (c) the provision refers to an existing title, State/Territory petroleum exploration title, State/Territory petroleum retention title or State/Territory petroleum production title that relates to the future potentially affected title; the registered holder of the existing title, or the holder of the existing State/Territory petroleum exploration title, State/Territory petroleum retention title or State/Territory petroleum production title, is covered by this subsection.
- (3) The notice given under subsection (1) must:
- (a) set out details of the determination that is intended to be made; and
  - (b) set out the reasons for the intended determination; and
  - (c) invite a person to whom the notice has been given to make a written submission to the decision-maker about the intended determination; and
  - (d) specify a time limit for making that submission.
- (4) In making a determination, the decision-maker must take into account any submissions made in accordance with the notice.

## **Part 3—Applications for declarations of identified greenhouse gas storage formations**

### **13 Simplified outline of this Part**

Certain information must be set out in an application for the declaration of a part of a geological formation as an identified greenhouse gas storage formation.

The estimate of the spatial extent of the formation must comply with certain requirements.

The responsible Commonwealth Minister must follow certain processes in dealing with an application.

### **14 Information to be set out in applications and requirements for estimates of spatial extent**

*Applications for declarations of identified greenhouse gas storage formations*

- (1) For the purposes of paragraphs 312(3)(c) and 312A(3)(c) of the Act, subclause 1(1) and Parts 2 and 4 of Schedule 1 have effect.

Note: For other information that must be set out in applications, see subsections 312(3) and 312A(3) of the Act.

*Requirements for estimates of spatial extent*

- (2) For the purposes of subsections 312(4) and 312A(4) of the Act, subclause 1(2) and Part 3 of Schedule 1 have effect.

### **15 Notices about varying applications**

*Application of this section*

- (1) This section applies if an application is made under section 312 or 312A of the Act.

*Notices about varying application*

- (2) If, on considering the application, the responsible Commonwealth Minister:
- (a) is not satisfied as mentioned in subparagraph 312(11)(b)(i) or 312A(11)(b)(i) of the Act (as applicable); but
  - (b) reasonably believes that the applicant could vary the application to so satisfy the responsible Commonwealth Minister;
- the responsible Commonwealth Minister must, by written notice given to the applicant:

- (c) inform the applicant that the responsible Commonwealth Minister is not so satisfied and of the reasons for not being so satisfied; and
- (d) give the applicant an opportunity to vary the application.

- (3) If the application is varied, a reference in subsection (2) to the application includes a reference to the application as varied.

Note: For variation of applications, see subsections 312(7) to (10) and 312A(7) to (10) of the Act.

- (4) If the Minister gives a notice under subsection (2) in relation to an application, the Minister is not required to consider the application further until the applicant has varied the application.

## Part 4—Site plans

### Division 1—Preliminary

#### 16 Simplified outline of this Part

For any operations to be carried on in relation to an identified greenhouse gas storage formation specified in a greenhouse gas injection licence, an approved site plan must be in force in relation to the formation, and the licensee must comply with the plan.

A draft site plan must meet certain criteria. The responsible Commonwealth Minister must decide whether to approve draft site plans, and may withdraw the approval of approved site plans in certain circumstances.

Approved site plans must be reviewed periodically. The responsible Commonwealth Minister may also request the review of approved site plans in certain circumstances.

Draft variations of approved site plans must be prepared in certain circumstances. The responsible Commonwealth Minister must decide whether to approve draft variations.

Offences and civil penalties apply in relation to contravening the requirements of this Part.

## **Division 2—Criteria for draft site plans**

### **17 Purpose of this Division**

For the purposes of paragraphs 362(1)(h), 362(2)(h), 368B(1)(j), 368B(2)(j) and 370(i) of the Act, this Division sets out criteria for a draft site plan in relation to an identified greenhouse gas storage formation that accompanies a licence application.

- Note 1: Under paragraph 24(c) of the Act, a site plan is divided into the following parts:
- (a) Part A, which sets out predictions for the behaviour of a greenhouse gas substance stored in the identified greenhouse gas storage formation;
  - (b) Part B, which deals with other matters.
- Note 2: In relation to draft site plans, see also subsections 361(8) and (10), 368A(7) and (9) and 369(7) and (9) of the Act.

### **18 Criteria for draft site plans—general**

- (1) The draft site plan must be appropriate for the nature and scale of the proposed operations for the plan.
- (2) The draft site plan must demonstrate, on the basis of available data and current technical knowledge, that if the proposed operations are undertaken in accordance with the plan, the formation will be safe and secure for the permanent storage of:
  - (a) any greenhouse gas substances that are already stored in the formation; and
  - (b) the greenhouse gas substances that are proposed to be injected into and stored in the formation.
- (3) The draft site plan must demonstrate all of the following for the proposed operations that are operations for the injection or permanent storage of a greenhouse gas substance:
  - (a) that the geological risks associated with the operations have been identified;
  - (b) that new geological risks associated with the operations will be identified as they arise;
  - (c) that increases in the levels of existing geological risks associated with the operations will be identified as they arise;
  - (d) that the risks mentioned in paragraphs (a), (b) and (c) will be eliminated or reduced to as low as is reasonably practicable;
  - (e) that if a risk mentioned in paragraph (a), (b) or (c) is reduced but not eliminated, the remaining risk will be acceptable.

Note: An example of a geological risk associated with the operations is the risk of the substance migrating beyond the boundary of the proposed licence area for the licence application.

### **19 Criteria for draft site plans—Part A**

- (1) Part A of the draft site plan must:

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- (a) be presented as “Part A—Behaviours predicted for the purposes of paragraphs 379(1)(e) and (f) of the Act”; and
- (b) set out predictions for the behaviour, at specified times, of each greenhouse gas substance that is already stored in, or is proposed to be injected into and stored in, the formation; and
- (c) include information relevant to the predictions.

Note: For paragraph (a), section 379 of the Act deals with when a serious situation exists in relation to an identified greenhouse gas storage formation.

- (2) For the purposes of paragraph (1)(b) of this section:
  - (a) the specified times must be of a sufficient number, and be at sufficiently frequent intervals, to ensure that:
    - (i) the predictions are soundly based; and
    - (ii) comparison of the actual and predicted behaviours of each substance will enable the timely detection of the existence of serious situations mentioned in paragraphs 379(1)(e) and (f) of the Act in relation to the formation; and
  - (b) the predictions must be set out and explained in sufficient detail to demonstrate that the predictions are soundly based; and
  - (c) the predictions must be consistent with the spatial extent of the formation (as declared under paragraph 312(11)(d) or 312A(11)(d) (as applicable) of the Act); and
  - (d) the predictions for the behaviour of a substance must be described by reference to the following:
    - (i) each known or expected migration pathway of the substance;
    - (ii) each known or expected migration rate of the substance;
    - (iii) any other matter relevant to the accuracy of the predictions; and
  - (e) the predictions must demonstrate that the behaviour of each substance will be consistent with the formation being safe and secure for the permanent storage of:
    - (i) any substances that are already stored in the formation; and
    - (ii) the substances that are proposed to be injected into and stored in the formation;assuming that the predicted behaviour occurs at the times at which it is predicted to occur.
- (3) For the purposes of paragraph (1)(c) of this section, the information must include the following:
  - (a) the information that was included in the application (including the application as varied) for the declaration under section 312 or 312A (as applicable) of the Act in relation to the formation in accordance with clause 3 (integrity of the formation) and Part 3 (estimates of spatial extent) of Schedule 1 to this instrument;
  - (b) if a variation of the declaration under section 312 or 312A (as applicable) of the Act in relation to the formation has been made on application as mentioned in paragraph 313(3)(a) of the Act—the information relating to

the integrity of the formation and the estimate of the spatial extent of the formation that was included in the application.

## **20 Criteria for draft site plans—Part B**

- (1) Part B of the draft site plan must:
  - (a) be presented as “Part B—Other matters”; and
  - (b) set out the information specified in Schedule 2; and
  - (c) set out an integrated operations management plan, showing clear chains of command where appropriate; and
  - (d) include an appropriate strategy for the implementation of the site plan; and
  - (e) include appropriate arrangements for monitoring, recording and reporting in relation to:
    - (i) the implementation of the site plan; and
    - (ii) compliance with the site plan.
- (2) Information set out in Part B must not be inconsistent with the declaration of the formation under section 312 or 312A (as applicable) of the Act.

## Division 3—Obligations for greenhouse gas injection licensees

### 21 Purpose of this Division

This Division is made for the purposes of subsections 457(1) and (2) of the Act.

### 22 Carrying on operations

- (1) A greenhouse gas injection licensee must not carry on any operations in relation to an identified greenhouse gas storage formation specified in the licence unless an approved site plan is in force in relation to the formation.

Note: A site plan in respect of which approval is in force under this instrument is an *approved site plan* (see section 7 of the Act).

- (2) If an approved site plan is in force in relation to an identified greenhouse gas storage formation specified in a greenhouse gas injection licence, the licensee must comply with the plan.

*Strict liability offence*

- (3) A person commits an offence of strict liability if the person contravenes subsection (1) or (2).

Penalty: 100 penalty units.

*Civil penalty provision*

- (4) A person is liable to a civil penalty if the person contravenes subsection (1) or (2).

Civil penalty: 1,000 penalty units.

## **Division 4—Approval of draft site plans**

### **23 Purpose of this Division**

This Division is made for the purposes of subsection 457(3) of the Act.

### **24 Application of this Division**

This Division applies if the responsible Commonwealth Minister receives a draft site plan in relation to an identified greenhouse gas storage formation accompanying a licence application.

### **25 Decision on approval of draft site plan**

- (1) The responsible Commonwealth Minister must:
  - (a) approve the draft site plan; or
  - (b) refuse to approve the draft site plan.
- (2) The Minister may approve the draft site plan if the Minister is reasonably satisfied that the plan meets the criteria set out in Division 2.
- (3) In deciding whether to approve the draft site plan, the Minister may have regard to any other matters the Minister considers relevant.

### **26 Decision-making process—requests for further information**

- (1) The responsible Commonwealth Minister or the Titles Administrator may, by written notice given to the applicant, ask the applicant to provide further written information relating to any of the criteria set out in Division 2.
- (2) The request must specify:
  - (a) each criterion in relation to which information is requested; and
  - (b) a reasonable period within which the information is to be provided.
- (3) If the applicant provides the information within the specified period, or a longer period agreed to by the Minister or the Titles Administrator, a reference in this Division to the draft site plan includes a reference to the draft site plan as including the further information.
- (4) If the Minister or the Titles Administrator gives a notice under subsection (1) in relation to a draft site plan, the Minister is not required to consider the draft site plan further until the applicant has provided the further information.

### **27 Decision-making process—notices about meeting criteria**

- (1) If, on considering the draft site plan, the Minister:
  - (a) is not satisfied that the plan meets the criteria set out in Division 2; but
  - (b) reasonably believes that the applicant could vary the draft site plan, or provide additional information, to so satisfy the Minister;

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the Minister must, by written notice given to the applicant:

- (c) inform the applicant that the Minister is not so satisfied and of the reasons for not being so satisfied; and
  - (d) give the applicant an opportunity to vary the draft site plan or provide the additional information.
- (2) If the applicant varies the draft site plan, or provides additional information, in response to a notice under subsection (1), a reference in this Division to the draft site plan includes a reference to the draft site plan as varied or as including the additional information (as applicable).
- (3) If the Minister gives a notice under subsection (1) in relation to a draft site plan, the Minister is not required to consider the draft site plan further until the applicant has varied the plan or provided the additional information.

**28 Notice of decision**

- (1) The responsible Commonwealth Minister must give the applicant written notice of the decision under section 25.
- (2) If the decision is to approve the draft site plan, the notice must include the time of the approval.
- (3) If the decision is to refuse to approve the draft site plan, the notice must include the reasons for the refusal.

## **Division 5—Duration of approved site plans**

### **29 Purpose of this Division**

This Division is made for the purposes of subsection 457(4) of the Act.

### **30 Duration of approved site plans**

If the responsible Commonwealth Minister approves a draft site plan in relation to an identified greenhouse gas storage formation, the approved site plan:

- (a) comes into force at the time of the approval; and
- (b) remains in force:
  - (i) if, under section 32, the Minister withdraws approval of the plan in relation to the formation—until the withdrawal; or
  - (ii) otherwise—indefinitely.

## **Division 6—Withdrawal of approval of approved site plans**

### **31 Purpose of this Division**

This Division is made for the purposes of subsection 457(5) of the Act.

### **32 Withdrawal of approval of site plans**

- (1) This section applies if:
  - (a) an approved site plan is in force in relation to an identified greenhouse gas storage formation specified in a greenhouse gas injection licence; and
  - (b) any of the following apply:
    - (i) the licensee has failed to comply with the plan;
    - (ii) the licensee has failed to review the plan as required by Division 7;
    - (iii) the licensee has failed to submit a draft variation of the plan to the responsible Commonwealth Minister as required by Division 7;
    - (iv) the licensee has failed to comply with a direction given by the responsible Commonwealth Minister under the Act.
- (2) The responsible Commonwealth Minister may withdraw approval of the plan.

### **33 Steps to be taken before withdrawing approval**

- (1) Before withdrawing approval of a site plan, the responsible Commonwealth Minister must comply with subsections (2), (4) and (5).
- (2) The Minister must give the licensee at least 30 days' notice, in writing, of the Minister's intention to withdraw approval of the plan.
- (3) The Minister may give a copy of the notice to such other persons (if any) as the Minister thinks fit.
- (4) The Minister must specify in the notice a day by which the licensee (or any other person to whom a copy of the notice has been given) may submit to the Minister, in writing, any matters for the Minister to take into account in deciding whether to withdraw approval of the plan.
- (5) In deciding whether to withdraw approval of the plan, the Minister must take into account:
  - (a) any action taken by the licensee to remove the ground for withdrawal of approval, or to prevent the recurrence of that ground; and
  - (b) any matter submitted to the Minister before the day specified in the notice by:
    - (i) the licensee; or
    - (ii) if another person is given a copy of the notice under subsection (3)—that other person.

### **34 Notice of withdrawal of approval**

- (1) The responsible Commonwealth Minister must give the licensee written notice of the withdrawal of approval under section 32.
- (2) The notice must specify:
  - (a) the reasons for the withdrawal; and
  - (b) the day when the withdrawal takes effect.

## Division 7—Review and variation of approved site plans

### 35 Purpose of this Division

- (1) This Division is made for the purposes of subsection 457(6) of the Act.
- (2) Sections 39, 42 and 45 are also made for the purposes of subsections 376(11), 380(13) and 383(13) of the Act.

### 36 Five-yearly reviews and draft variations

- (1) A greenhouse gas injection licensee must, at least once in each period of 5 years during which an approved site plan is in force in relation to an identified greenhouse gas storage formation specified in the licence:
  - (a) review the plan, taking into account the matters mentioned in section 38; and
  - (b) decide whether the plan should be varied.
- (2) The licensee must, within 30 days after making the decision, give the responsible Commonwealth Minister written notice of the decision, the date of the decision and the reasons for the decision.
- (3) If the decision was that the plan should be varied, the licensee must, within the period mentioned in subsection (4), give the responsible Commonwealth Minister a draft variation of the plan.
- (4) For the purposes of subsection (3), the period is:
  - (a) 180 days after making the decision; or
  - (b) if the responsible Commonwealth Minister agrees to a longer period—that longer period.

#### *Strict liability offence*

- (5) A person commits an offence of strict liability if the person contravenes subsection (1), (2) or (3).

Note: Subsection (5) is a continuing offence under section 4K of the *Crimes Act 1914*. See section 62 of this instrument for the maximum penalty for each day that an offence under subsection (5) continues.

Penalty: 50 penalty units.

#### *Civil penalty provision*

- (6) A person is liable to a civil penalty if the person contravenes subsection (1), (2) or (3).

Note: Subsection (6) is a continuing civil penalty provision under section 93 of the *Regulatory Powers Act*. See section 62 of this instrument for the maximum civil penalty for each day that a contravention referred to in subsection (6) continues.

Civil penalty: 500 penalty units.

### **37 Reviews requested by Minister and draft variations**

- (1) This section applies if:
  - (a) an approved site plan is in force in relation to an identified greenhouse gas storage formation specified in a greenhouse gas injection licence; and
  - (b) any of the following apply:
    - (i) the licensee applies, under section 313 of the Act, for a variation of the declaration under section 312 or 312A of the Act (as applicable) in relation to the formation;
    - (ii) the licensee applies, under section 374 or 374A of the Act (as applicable), for a variation of a matter specified in the licence;
    - (iii) a reportable incident in relation to the formation occurs.
- (2) The responsible Commonwealth Minister may, by written notice given to the licensee, request the licensee to review the plan within the period specified in the notice.
- (3) If the Minister gives the licensee a notice under subsection (2), the licensee must, within the period specified in the notice:
  - (a) review the plan, taking into account the matters mentioned in section 38; and
  - (b) decide whether the plan should be varied; and
  - (c) if the decision was that the plan should be varied—prepare a draft variation of the plan; and
  - (d) give the Minister:
    - (i) written notice of the decision, the date of the decision and the reasons for the decision; and
    - (ii) if the decision was that the plan should be varied—the draft variation.
- (4) The period specified in a notice under subsection (2) must be at least 60 days.

#### *Strict liability offence*

- (5) A person commits an offence of strict liability if the person contravenes subsection (3).

Note: Subsection (5) is a continuing offence under section 4K of the *Crimes Act 1914*. See section 62 of this instrument for the maximum penalty for each day that an offence under subsection (5) continues.

Penalty: 100 penalty units.

#### *Civil penalty provision*

- (6) A person is liable to a civil penalty if the person contravenes subsection (3).

Note: Subsection (6) is a continuing civil penalty provision under section 93 of the *Regulatory Powers Act*. See section 62 of this instrument for the maximum civil penalty for each day that a contravention referred to in subsection (6) continues.

Civil penalty: 1,000 penalty units.

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**38 Matters to be taken into account in reviews**

- (1) This section is made for the purposes of paragraphs 36(1)(a) and 37(3)(a).
- (2) In relation to the predictions set out in Part A of the plan, the matters are the following:
  - (a) experience gained about the predictions;
  - (b) the carrying out of the operations authorised by the licence;
  - (c) monitoring of migration pathways.
- (3) In relation to the following plans and programs set out in Part B of the plan:
  - (a) the plan for monitoring the behaviour of greenhouse gas substances stored in the formation;
  - (b) the program for detecting and monitoring leakages of greenhouse gas substances during transport and injection;
  - (c) the program for detecting and monitoring leakages of greenhouse gas substances from well bores;
  - (d) the plan for carrying out any work that is required to remediate the formation;the matters are the following:
  - (e) the evolution of industry best practice;
  - (f) the carrying out of the operations authorised by the licence.

**39 Draft variations to remove inconsistency with directions under sections 376, 380 and 383 of the Act**

- (1) This section applies if:
  - (a) a direction under section 376, 380 or 383 of the Act is in force in relation to a greenhouse gas injection licence; and
  - (b) the direction is inconsistent with anything in an approved site plan for an identified greenhouse gas storage formation specified in the licence.
- (2) The licensee must, within the period mentioned in subsection (3):
  - (a) prepare a draft variation of the plan for the purposes of removing the inconsistency; and
  - (b) give the draft variation to the responsible Commonwealth Minister.
- (3) For the purposes of subsection (2), the period is:
  - (a) 60 days beginning on the day the direction came into force; or
  - (b) if the responsible Commonwealth Minister agrees to a longer period—that longer period.

*Strict liability offence*

- (4) A person commits an offence of strict liability if the person contravenes subsection (2).

Note: Subsection (4) is a continuing offence under section 4K of the *Crimes Act 1914*. See section 62 of this instrument for the maximum penalty for each day that an offence under subsection (4) continues.

Penalty: 50 penalty units.

*Civil penalty provision*

- (5) A person is liable to a civil penalty if the person contravenes subsection (2).

Note: Subsection (5) is a continuing civil penalty provision under section 93 of the Regulatory Powers Act. See section 62 of this instrument for the maximum civil penalty for each day that a contravention referred to in subsection (5) continues.

Civil penalty: 500 penalty units.

#### **40 Draft variations following occurrence of certain circumstances**

- (1) This section applies if:
- (a) an approved site plan is in force in relation to an identified greenhouse gas storage formation specified in a greenhouse gas injection licence; and
  - (b) a circumstance mentioned in the following table occurs.

<b>Item</b>	<b>Circumstance</b>
1	The plan is no longer accurate and up to date because there is new information that significantly alters the determination of any of the following: <ul style="list-style-type: none"><li>(a) the fundamental suitability determinants of the formation;</li><li>(b) the expected migration pathways of each greenhouse gas substance stored in, or to be injected into and stored in, the formation;</li><li>(c) predictions set out in Part A of the plan for the behaviour of each greenhouse gas substance stored in, or to be injected into and stored in, the formation;</li><li>(d) interactions between the formation and the method by which a greenhouse gas substance is injected into the formation;</li><li>(e) any other matter relevant to the safe and secure storage of a greenhouse gas substance in the formation.</li></ul>
2	The licensee proposes to make a change, or a series of changes, to the way the operations authorised by the licence are carried out, that will affect: <ul style="list-style-type: none"><li>(a) predictions set out in Part A of the plan for the behaviour of each greenhouse gas substance stored in, or to be injected into and stored in, the formation; or</li><li>(b) the risks associated with those operations.</li></ul>
3	The licensee proposes to make a significant change to the way the operations authorised by the licence are managed that will affect the integrated operations management plan.

- (2) The licensee must, within the period mentioned in subsection (3):
- (a) prepare a draft variation of the plan for the purpose of addressing the circumstance; and
  - (b) give the draft variation to the responsible Commonwealth Minister.
- (3) For the purposes of subsection (2), the period is:
- (a) 60 days beginning on the day the circumstance occurs; or
  - (b) if the responsible Commonwealth Minister agrees to a longer period—that longer period.

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*Strict liability offence*

- (4) A person commits an offence of strict liability if the person contravenes subsection (2).

Note: Subsection (4) is a continuing offence under section 4K of the *Crimes Act 1914*. See section 62 of this instrument for the maximum penalty for each day that an offence under subsection (4) continues.

Penalty: 100 penalty units.

*Civil penalty provision*

- (5) A person is liable to a civil penalty if the person contravenes subsection (2).

Note: Subsection (5) is a continuing civil penalty provision under section 93 of the *Regulatory Powers Act*. See section 62 of this instrument for the maximum civil penalty for each day that a contravention referred to in subsection (5) continues.

Civil penalty: 1,000 penalty units.

**41 Draft variations initiated by licensees**

- (1) A greenhouse gas injection licensee may apply to the responsible Commonwealth Minister for approval to vary the approved site plan for the licence.
- (2) An application must be in writing and be accompanied by the draft variation.

**42 Decision on approval of draft variation**

- (1) If the responsible Commonwealth Minister receives a draft variation of an approved site plan under this Division, the Minister must:
- (a) approve the draft variation; or
  - (b) refuse to approve the draft variation.
- (2) The Minister may approve the draft variation if the Minister is reasonably satisfied that:
- (a) if the draft variation was prepared under section 36, 37 or 41 of this instrument—the approved site plan should be varied as set out in the draft variation; or
  - (b) if the draft variation was prepared under section 39 of this instrument—the draft variation would remove the inconsistency with the direction under section 376, 380 or 383 of the Act (as applicable) in relation to which the draft variation was prepared; or
  - (c) if the draft variation was prepared under section 40 of this instrument:
    - (i) the draft variation would address the circumstance in relation to which the draft variation was prepared; and
    - (ii) if the circumstance in relation to which the draft variation was prepared is mentioned in item 2 of the table in subsection 40(1) of this instrument—the approved site plan, as varied by the draft variation, would meet the criteria set out in Division 2 of this Part.

- (3) In deciding whether to approve the draft variation, the Minister may have regard to any other matters the Minister considers relevant.

#### **43 Decision-making process—requests for further information**

- (1) The responsible Commonwealth Minister or the Titles Administrator may, by written notice given to the licensee, ask the licensee to provide further written information relating to the draft variation.
- (2) The request must specify:
- (a) each matter in relation to which information is requested; and
  - (b) a reasonable period within which the information is to be provided.
- (3) If the licensee provides the information within the specified period, or a longer period agreed to by the Minister or the Titles Administrator, a reference in this Division to the draft variation includes a reference to the draft variation as including the further information.
- (4) If the Minister or the Titles Administrator gives a notice under subsection (1) in relation to a draft variation, the Minister is not required to consider the draft variation further until the applicant has provided the further information.

#### **44 Notice of decision**

- (1) The responsible Commonwealth Minister must give the licensee written notice of the decision under section 42.
- (2) If the decision is to refuse to approve the draft variation, the notice must include the reasons for the refusal.

#### **45 Effect of approval of draft variations**

If a draft variation of an approved site plan is approved under section 42, the approved site plan is varied accordingly.

#### **46 References to approved site plans**

If an approved site plan is varied under section 45, a reference in this instrument to the approved site plan is a reference to the approved site plan as varied.

## Part 5—Reportable incidents

### Division 1—Preliminary

#### 47 Simplified outline of this Part

This Part sets out requirements in relation to reporting about events, known as reportable incidents, in relation to identified greenhouse gas storage formations.

If a greenhouse gas injection licensee becomes aware of the occurrence of a reportable incident, the licensee must notify the responsible Commonwealth Minister and provide a report to the responsible Commonwealth Minister in relation to the reportable incident. The licensee must also give notice, and copies of reports, to the responsible Minister of the jurisdiction in whose offshore area the reportable incident occurred.

Offences and civil penalties apply in relation to contravening the requirements of this Part.

#### 48 Purpose of this Part

This Part is made for the purposes of item 2B of the table in subsection 782(1) of the Act.

#### 49 Reportable incidents, notification periods and reporting deadlines

- (1) Each of the following is a **reportable incident** in relation to an identified greenhouse gas storage formation specified in a greenhouse gas injection licence:
  - (a) an event:
    - (i) that is set out in Part B of the site plan in relation to the formation in accordance with subclause 6(3) of Schedule 2; and
    - (ii) that causes or has the potential to cause a serious situation to exist in relation to the formation;
  - (b) the existence in relation to the formation of a serious situation:
    - (i) of the kind mentioned in paragraph 379(1)(a) of the Act (which is about a greenhouse gas substance injected into the identified greenhouse gas storage formation having leaked, or leaking, from the formation); and
    - (ii) involving a leakage of greenhouse gas substance to the seabed;
  - (c) an event that causes the existence in relation to the formation of a serious situation:
    - (i) of the kind mentioned in paragraph 379(1)(b) of the Act (which is about there being a significant risk that a greenhouse gas substance injected into the formation will leak from the formation); and
    - (ii) involving a risk of leakage of greenhouse gas substance to the seabed;

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(d) a leakage of a greenhouse gas substance, from the bore of a well that forms part of the operations carried out under the licence, that causes or has the potential to cause a serious situation to exist in relation to the formation.

Note: For paragraph (d), wells that form part of the operations carried out under a greenhouse gas injection licence may include injection wells, monitoring wells and pressure management wells.

(2) The following table sets out notification periods and reporting deadlines for reportable incidents in relation to identified greenhouse gas storage formations specified in greenhouse gas injection licences.

<b>Notification and reporting deadlines for reportable incidents</b>			
<b>Item</b>	<b>Column 1 For a reportable incident mentioned in ...</b>	<b>Column 2 the notification deadline is ...</b>	<b>Column 3 and the reporting deadline is ...</b>
1	Paragraph (1)(a)	The end of 3 days beginning on the day after the day the licensee becomes aware of the occurrence of the incident	The end of 10 days beginning on the day after the day the licensee becomes aware of the occurrence of the incident
2	Paragraph (1)(b)	2 hours after the time the licensee becomes aware of the occurrence of the incident	The end of 3 days beginning on the day after the day the licensee becomes aware of the occurrence of the incident
3	Paragraph (1)(c)	2 hours after the time the licensee becomes aware of the occurrence of the incident	The end of 3 days beginning on the day after the day the licensee becomes aware of the occurrence of the incident
4	Paragraph (1)(d)	24 hours after the time the licensee becomes aware of the occurrence of the incident	The end of 5 days beginning on the day after the day the licensee becomes aware of the occurrence of the incident

## Division 2—Notifying and reporting

### 50 Application of this Division

This Division applies if:

- (a) a reportable incident in relation to an identified greenhouse gas storage formation specified in a greenhouse gas injection licence occurs; and
- (b) the greenhouse gas injection licensee becomes aware of the occurrence of the incident.

### 51 Notifying responsible Commonwealth and State/Territory Ministers

- (1) The licensee must, not later than the notification deadline mentioned in column 2 of the table in subsection 49(2) for the incident, give the responsible Commonwealth Minister, orally or in writing, a notification of the occurrence of the incident that contains the following:
  - (a) all material facts and circumstances concerning the incident that the licensee knows or is able, by reasonable search or enquiry, to find out;
  - (b) details of any action taken to avoid or mitigate any adverse environmental impacts of the incident;
  - (c) details of corrective action that has been, or is proposed to be, taken to prevent the occurrence of a similar incident.
- (2) The licensee must, within 3 days beginning on the day the notification under subsection (1) (the **Commonwealth notification**) is given, give the responsible State/Territory Minister for the incident:
  - (a) if the Commonwealth notification was given orally—a written record of the Commonwealth notification; or
  - (b) if the Commonwealth notification was given in writing—a copy of the Commonwealth notification.

#### *Strict liability offences*

- (3) A person commits an offence of strict liability if the person contravenes subsection (1).

Note: Subsection (3) is a continuing offence under section 4K of the *Crimes Act 1914*. See section 62 of this instrument for the maximum penalty for each day that an offence under subsection (3) continues.

Penalty: 100 penalty units.

- (4) A person commits an offence of strict liability if the person contravenes subsection (2).

Note: Subsection (4) is a continuing offence under section 4K of the *Crimes Act 1914*. See section 62 of this instrument for the maximum penalty for each day that an offence under subsection (4) continues.

Penalty: 50 penalty units.

*Civil penalty provisions*

- (5) A person is liable to a civil penalty if the person contravenes subsection (1).

Note: Subsection (5) is a continuing civil penalty provision under section 93 of the Regulatory Powers Act. See section 62 of this instrument for the maximum civil penalty for each day that a contravention referred to in subsection (5) continues.

Civil penalty: 1,000 penalty units.

- (6) A person is liable to a civil penalty if the person contravenes subsection (2).

Note: Subsection (6) is a continuing civil penalty provision under section 93 of the Regulatory Powers Act. See section 62 of this instrument for the maximum civil penalty for each day that a contravention referred to in subsection (6) continues.

Civil penalty: 500 penalty units.

## **52 Reporting to responsible Commonwealth and State/Territory Ministers**

- (1) The licensee must, no later than the reporting deadline mentioned in column 3 of the table in subsection 49(2) for the incident, give a written report to the responsible Commonwealth Minister that contains the following:
- (a) all material facts and circumstances concerning the incident that the licensee knows or is able, by reasonable search or enquiry, to find out;
  - (b) details of any action taken to avoid or mitigate any adverse environmental impacts of the incident;
  - (c) details of corrective action that has been, or is proposed to be, taken to prevent the occurrence of a similar incident;
  - (d) for an incident mentioned in paragraph 49(1)(b) or (c), the following:
    - (i) an estimate of how much greenhouse gas substance has leaked, or is likely to leak, to the seabed;
    - (ii) an estimate of how much greenhouse gas substance would leak to the seabed as a result of the incident if action were taken to avoid or mitigate any adverse environmental impacts of the incident;
    - (iii) an estimate of how much greenhouse gas substance would leak to the seabed as a result of the incident if no action were taken to avoid or mitigate any adverse environmental impacts of the incident;
    - (iv) an explanation of how the estimates mentioned in subparagraphs (i) to (iii) were made.
- (2) The licensee must, within 7 days beginning on the day the report is given under subsection (1), give a copy of the report to the responsible State/Territory Minister for the incident.

*Strict liability offences*

- (3) A person commits an offence of strict liability if the person contravenes subsection (1).

Note: Subsection (3) is a continuing offence under section 4K of the *Crimes Act 1914*. See section 62 of this instrument for the maximum penalty for each day that an offence under subsection (3) continues.

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Penalty: 50 penalty units.

- (4) A person commits an offence of strict liability if the person contravenes subsection (2).

Note: Subsection (4) is a continuing offence under section 4K of the *Crimes Act 1914*. See section 62 of this instrument for the maximum penalty for each day that an offence under subsection (4) continues.

Penalty: 50 penalty units.

*Civil penalty provisions*

- (5) A person is liable to a civil penalty if the person contravenes subsection (1).

Note: Subsection (5) is a continuing civil penalty provision under section 93 of the Regulatory Powers Act. See section 62 of this instrument for the maximum civil penalty for each day that a contravention referred to in subsection (5) continues.

Civil penalty: 500 penalty units.

- (6) A person is liable to a civil penalty if the person contravenes subsection (2).

Note: Subsection (6) is a continuing civil penalty provision under section 93 of the Regulatory Powers Act. See section 62 of this instrument for the maximum civil penalty for each day that a contravention referred to in subsection (6) continues.

Civil penalty: 500 penalty units.

## **Part 6—Information that may be made publicly available**

### **53 Simplified outline of this Part**

<p>The responsible Commonwealth Minister may make certain information publicly available.</p>
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### **54 Information relating to leakages during transport or injection or from well bores**

- (1) This section applies to information that:
  - (a) is held by the Commonwealth; and
  - (b) relates to detecting and monitoring, under the programs mentioned in clauses 7 and 8 of Schedule 2 set out in Part B of a site plan in relation to an identified greenhouse gas storage formation, of leakages of greenhouse gas substances:
    - (i) during transport and injection; or
    - (ii) from well bores.
- (2) The responsible Commonwealth Minister may make the following information publicly available:
  - (a) the results of the detection and monitoring;
  - (b) any raw data collected during the detection and monitoring.

## Part 7—Enforcement

### Division 1—Preliminary

#### 55 Simplified outline of this Part

The civil penalty provisions of this instrument are enforceable under Part 4 of the Regulatory Powers Act.

The provisions of this instrument are also enforceable using enforceable undertakings under Part 6 of the Regulatory Powers Act and injunctions under Part 7 of the Regulatory Powers Act.

The maximum daily penalty for continuing offences and continuing contraventions of civil penalty provisions is 10% of the maximum penalty, or civil penalty, that can be imposed in respect of those offences and contraventions.

Note: This instrument is a listed NOPSEMA law (see the definition of *listed NOPSEMA law* in section 601 of the Act and regulation 11B.01 of the *Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2011*). This instrument is subject to monitoring under Part 2 of the Regulatory Powers Act, and offences and civil penalty provisions of this instrument are subject to investigation under Part 3 of the Regulatory Powers Act (see, in particular, sections 602C and 602D of the Act).

#### 56 Purpose of this Part

- (1) This Part (except for subsection 62(1)) is made for the purposes of section 790A of the Act.
- (2) Section 61 is also made for the purposes of section 790 of the Act.
- (3) Subsection 62(1) is made for the purposes of section 790 of the Act.

## **Division 2—Civil penalties**

### **57 Civil penalty provisions**

#### *Enforceable civil penalty provisions*

- (1) Each civil penalty provision of this instrument may be enforced under Part 4 of the Regulatory Powers Act.

Note: Part 4 of the Regulatory Powers Act allows a civil penalty provision to be enforced by obtaining an order for a person to pay a pecuniary penalty for the contravention of the provision.

#### *Authorised applicant*

- (2) For the purposes of Part 4 of the Regulatory Powers Act, the responsible Commonwealth Minister is an authorised applicant in relation to the civil penalty provisions of this instrument.

#### *Relevant court*

- (3) For the purposes of Part 4 of the Regulatory Powers Act, each of the following courts is a relevant court in relation to the civil penalty provisions of this instrument:
  - (a) the Federal Court;
  - (b) the Federal Circuit and Family Court of Australia (Division 2);
  - (c) the Supreme Court of a State or Territory.

## Division 3—Enforceable undertakings

### 58 Enforceable undertakings

#### *Enforceable provisions*

- (1) The following provisions are enforceable under Part 6 of the Regulatory Powers Act:
- (a) each offence provision of this instrument;
  - (b) each civil penalty provision of this instrument.

Note: Part 6 of the Regulatory Powers Act creates a framework for accepting and enforcing undertakings relating to compliance with provisions.

#### *Authorised person*

- (2) For the purposes of Part 6 of the Regulatory Powers Act, the responsible Commonwealth Minister is an authorised person in relation to the provisions mentioned in subsection (1).

#### *Relevant court*

- (3) For the purposes of Part 6 of the Regulatory Powers Act, each of the following courts is a relevant court in relation to the provisions mentioned in subsection (1):
- (a) the Federal Court;
  - (b) the Federal Circuit and Family Court of Australia (Division 2);
  - (c) the Supreme Court of a State or Territory.

### 59 Publication of enforceable undertakings

- (1) If:
- (a) a person has given an undertaking under section 114 of the Regulatory Powers Act in relation to a provision of this instrument; and
  - (b) the undertaking has been accepted by the responsible Commonwealth Minister under section 114 of the Regulatory Powers Act; and
  - (c) the undertaking has not been withdrawn or cancelled;
- the responsible Commonwealth Minister must publish the undertaking on the Department's website.
- (2) If an undertaking contains personal information (within the meaning of the *Privacy Act 1988*), the responsible Commonwealth Minister must take such steps as are reasonable in the circumstances to ensure that the information is de-identified before the undertaking is published under subsection (1).

*De-identified information*

- (3) For the purposes of this section, information is ***de-identified*** if the information is no longer about an identifiable individual or an individual who is reasonably identifiable.

## Division 4—Injunctions

### 60 Injunctions

#### *Enforceable provisions*

- (1) The following provisions are enforceable under Part 7 of the Regulatory Powers Act:
- (a) each offence provision of this instrument;
  - (b) each civil penalty provision of this instrument.

Note: Part 7 of the Regulatory Powers Act creates a framework for using injunctions to enforce provisions.

#### *Authorised person*

- (2) For the purposes of Part 7 of the Regulatory Powers Act, the responsible Commonwealth Minister is an authorised person in relation to the provisions mentioned in subsection (1).

#### *Relevant court*

- (3) For the purposes of Part 7 of the Regulatory Powers Act, each of the following courts is a relevant court in relation to the provisions mentioned in subsection (1):
- (a) the Federal Court;
  - (b) the Federal Circuit and Family Court of Australia (Division 2);
  - (c) the Supreme Court of a State or Territory.

#### *Consent injunctions*

- (4) A relevant court may grant an injunction under Part 7 of the Regulatory Powers Act in relation to a provision mentioned in subsection (1) by consent of all the parties to proceedings brought under that Part, whether or not the court is satisfied that section 121 of that Act applies.

## **Division 5—Other matters**

### **61 Contravening offence provisions and civil penalty provisions**

- (1) This section applies if a provision of this instrument provides that a person contravening another provision of this instrument (the *conduct provision*) commits an offence or is liable to a civil penalty.
- (2) For the purposes of this instrument, and the Regulatory Powers Act to the extent that it relates to this instrument, a reference to a contravention of an offence provision or a civil penalty provision includes a reference to a contravention of the conduct provision.

### **62 Daily penalties for continuing offences and continuing contraventions of civil penalty provisions**

#### *Continuing offences*

- (1) The maximum penalty for each day that an offence under any of the following provisions continues is 10% of the maximum penalty that can be imposed in respect of that offence:
  - (a) subsection 36(5);
  - (b) subsection 37(5);
  - (c) subsection 39(4);
  - (d) subsection 40(4);
  - (e) subsections 51(3) and (4);
  - (f) subsections 52(3) and (4).

#### *Continuing contraventions of civil penalty provisions*

- (2) The maximum civil penalty for each day that a contravention referred to in any of the following provisions continues is 10% of the maximum civil penalty that can be imposed in respect of that contravention:
  - (a) subsection 36(6);
  - (b) subsection 37(6);
  - (c) subsection 39(5);
  - (d) subsection 40(5);
  - (e) subsections 51(5) and (6);
  - (f) subsections 52(5) and (6).

## **Part 8—Application, saving and transitional provisions**

### **Division 1—Provisions relating to this instrument as made**

#### **63 Applications for declarations of identified greenhouse gas storage formations**

Despite the repeal of the *Offshore Petroleum and Greenhouse Gas Storage (Greenhouse Gas Injection and Storage) Regulations 2011* (the **old regulations**) by the *Offshore Petroleum and Greenhouse Gas Storage Legislation (Repeal and Consequential Amendments (No. 2)) Regulations 2023*, the old regulations continue to apply, in relation to an application under section 312 or 312A of the Act made but not finally determined before the commencement of this instrument, as if that repeal had not happened.

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# **Schedule 1—Information to be set out in applications for declarations of identified greenhouse gas storage formations and requirements for estimates of spatial extent**

Note: See subsection 5(2) and section 14.

## **Part 1—Preliminary**

### **1 Preliminary**

- (1) Parts 2 and 4 of this Schedule specify information that must be set out in an application for the declaration of a part of a geological formation as an identified greenhouse gas storage formation, assuming (if applicable for particular information) that the part is an eligible greenhouse gas storage formation.
- (2) Assuming that the part is an eligible greenhouse gas storage formation, Part 3 of this Schedule specifies requirements that the estimate of the spatial extent of the eligible greenhouse gas storage formation must comply with.

**Schedule 1** Information to be set out in applications for declarations of identified greenhouse gas storage formations and requirements for estimates of spatial extent

**Part 2** Information about the part of the geological formation

Clause 2

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## **Part 2—Information about the part of the geological formation**

### **2 Geological features of the part of the geological formation**

A description and detailed analysis of the geological features of the part of the geological formation, including the effective sealing feature, attribute or mechanism.

### **3 Integrity of the part of the geological formation**

- (1) Information relating to the integrity of the part of the geological formation, set out in sufficient detail to demonstrate that the applicant has an understanding of the geological environment that is sufficient to allow the applicant to:
  - (a) identify all geological risks relating to the containment of the greenhouse gas substance to be stored; and
  - (b) propose strategies for the elimination or reduction and management of those risks.
- (2) An explanation of how, on the basis of the information mentioned in subclause (1), the applicant can identify risks and propose strategies as mentioned in that subclause.
- (3) The information mentioned in subclause (1) must, at a minimum, identify or refer to the following matters:
  - (a) the stratigraphy of the part of the geological formation and its rock types;
  - (b) the structure of the part of the geological formation and its rock types;
  - (c) any faults in the structure of:
    - (i) the part of the geological formation; or
    - (ii) the seal rocks of the part of the geological formation;
  - (d) the porosity and permeability of:
    - (i) the reservoirs of the part of the geological formation; and
    - (ii) the seal rocks of the part of the geological formation;
  - (e) the reactivity, with the greenhouse gas substance to be stored, of:
    - (i) the rock types of the reservoirs of the part of the geological formation; and
    - (ii) the seal rocks of the part of the geological formation;
  - (f) a geomechanical analysis of the part of the geological formation, including an assessment of the following:
    - (i) the local stress regime;
    - (ii) fracture gradients;
    - (iii) fault stability;
    - (iv) the geomechanical response of the part of the geological formation to injection;

- (g) the fluid parameters of the part of the geological formation, including data about chemical composition, pressure and temperature;
- (h) seismic information about the area in which the part of the geological formation is situated, including the history of any seismic activity in the area;
- (i) the conduct, in the area of the part of the geological formation, of any previous exploration activity for petroleum or greenhouse gas substances;
- (j) the existence of abandoned wells, including a map showing the location of each abandoned well, and any information available to the applicant about the following for each abandoned well:
  - (i) its location;
  - (ii) its history of construction;
  - (iii) how it was plugged;
  - (iv) the kind of cement that was used to plug it;
  - (v) any other aspects of its nature that are relevant to the integrity of the formation.

#### **4 Model of reservoirs and seal rocks**

A depositional model of the reservoirs and the seal rocks of the part of the geological formation.

#### **5 Other relevant geological information**

Any other geological information that may be relevant to the long-term safe and secure storage of the greenhouse gas substance to be stored, including:

- (a) information that relates to an area other than the permit area, lease area or licence area (as applicable) in which the part of the geological formation is situated; and
- (b) information that would be relevant to the responsible Commonwealth Minister declaring a closure assurance period in relation to the part of the geological formation.

Note: For paragraph (b), see Division 8 of Part 3.4 of Chapter 3 of the Act (Long-term liabilities).

## **Part 3—Requirements for estimates of spatial extent**

### **6 Predicted expected migration pathways**

- (1) A description of what the applicant predicts to be each expected migration pathway, over the period mentioned in subsection 21(3) of the Act, of the particular amount of the particular greenhouse gas substance to be injected into the part of the geological formation as mentioned in whichever of paragraph 21(1)(a) or (b) of the Act is applicable, for which the applicant has estimated the probability of occurrence to be more than 10%.
- (2) The description must be set out and explained in sufficient detail to demonstrate that the prediction is soundly based.

### **7 Modelling**

Details of any modelling undertaken to make the prediction, including details of the following:

- (a) the methodology used;
- (b) the types of models used;
- (c) any assumptions made in the course of the modelling.

### **8 Probability distributions**

The probability distributions associated with the prediction.

### **9 Blocks occupied by pathways**

A description of each block that the applicant reasonably believes will be occupied by a migration pathway described under clause 6.

### **10 Sealing feature, attribute or mechanism**

An explanation of the three-dimensional extent of the effective sealing feature, attribute or mechanism within the spatial extent of the part of the geological formation.

## **Part 4—Information about engineering enhancements**

### **11 Application of this Part**

This Part applies if the fundamental suitability determinants set out in the application, as required under subparagraph 312(3)(b)(i) or 312A(3)(b)(i) of the Act, include engineering enhancements.

### **12 Description of engineering enhancements**

A description of the engineering enhancements set out in sufficient detail to demonstrate that, taking into account those enhancements, the risks relating to the containment of the greenhouse gas substance to be stored in the part of the geological formation are likely to be acceptable.

### **13 Risk assessment analysis**

Details of the risk assessment analysis used by the applicant to support the engineering enhancements, including the following for each risk:

- (a) a description of the risk;
- (b) the possible consequences of the risk;
- (c) an assessment of the probability of occurrence of the risk;
- (d) the strategies for the elimination or reduction and management of the risk;
- (e) an explanation of how the risk has been, or will be:
  - (i) eliminated; or
  - (ii) reduced to as low as is reasonably practicable, and managed.

## Schedule 2—Information in Part B of draft site plan

Note: See paragraph 20(1)(b).

### 1 Preliminary

This Schedule specifies information that must be set out in Part B of a draft site plan in relation to an identified greenhouse gas storage formation that accompanies a licence application.

### 2 Operations planning and management

Information set out in sufficient detail to demonstrate that adequate planning has taken place in relation to the proposed operations for the plan.

### 3 Overview of proposed operations

#### *Multiple titleholders*

- (1) Whether the application is made, in accordance with subsection 775B(5), 775C(5) or 775CA(5) of the Act, by 2 or more registered holders of a greenhouse gas assessment permit, greenhouse gas holding lease, cross-boundary greenhouse gas assessment permit, cross-boundary greenhouse gas holding lease or petroleum production licence and if so, details of any joint venture arrangements between the registered holders.

#### *Commercial agreements*

- (2) Details of any commercial agreements, or negotiations undertaken, with suppliers of greenhouse gas substances in relation to the injection of a greenhouse gas substance into the formation.

#### *Infrastructure facilities and greenhouse gas substances*

- (3) A description of the following:
  - (a) the infrastructure facilities for engaging in the activities involved in the proposed operations for the plan;
  - (b) for each kind of greenhouse gas substance that is proposed to be injected into the formation:
    - (i) the source, composition and other relevant physical and chemical properties of the substance; and
    - (ii) the proposed rate, or range of rates, of injection of the substance; and
    - (iii) the number and location of wells at which injection of the substance is proposed to take place; and
    - (iv) the proposed injection pressure, or range of pressures, for each well at which injection of the substance is proposed to take place.

*Schedule for proposed operations*

- (4) A schedule for carrying out the proposed operations, including the timing proposed for each major milestone of the proposed operations.

*Planned significant works and upgrades*

- (5) Information about significant works and upgrades that are planned over the life of the proposed operations.

**4 Engineering enhancements***Information in application for declaration of formation*

- (1) If the application (including the application as varied) for the declaration of the part of the formation as an identified greenhouse gas storage formation included information in accordance with Part 4 (engineering enhancements) of Schedule 1 to this instrument—that information.

*Information in application for variation of declaration of formation*

- (2) If the declaration of the part of the formation as an identified greenhouse gas storage formation has been varied on application as mentioned in paragraph 313(3)(a) of the Act, and the application for the variation included information relating to engineering enhancements—that information.

**5 Risks relating to containment of greenhouse gas substances**

- (1) Information about any risks to the containment of greenhouse gas substances that have been identified that were not included in the application for the declaration of the part of the formation as an identified greenhouse gas storage formation.

Note: The following are examples of things that could pose risks to the containment of greenhouse gas substances:

- (a) a leakage of a greenhouse gas substance from a well bore;
  - (b) a leakage of a greenhouse gas substance during its transport for the purpose of injection into the formation;
  - (c) a leakage of a greenhouse gas substance at the point of injection into the formation;
  - (d) abandoned wells that could adversely affect the formation.
- (2) Details of the risk assessment analysis used by the applicant to identify each risk mentioned in subclause (1), including the following information for each risk:
- (a) a description of the risk;
  - (b) the possible consequences of the risk;
  - (c) an assessment of the probability of occurrence of the risk;
  - (d) the strategies for eliminating the risk or reducing the risk to as low as is reasonably practicable;
  - (e) if the risk has been, or will be, reduced but not eliminated—information demonstrating that the remaining risk will be acceptable.

Clause 6

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## 6 Monitoring behaviour of stored greenhouse gas substances

### *Monitoring plan—behaviour*

- (1) A plan for monitoring the behaviour of greenhouse gas substances in the reservoirs of the formation, set out in sufficient detail to demonstrate that:
  - (a) significant events in the reservoirs will be detected in a timely manner to enable any necessary mitigation and remediation activities to be initiated; and
  - (b) the timing and nature of the monitoring will detect any variations from the predictions set out in Part A of the draft site plan.

### *Proposed substances for facilitating monitoring*

- (2) Details (including concentration) of any substance that is proposed to be used to facilitate the monitoring of the behaviour of a greenhouse gas substance.

### *Events that could be reportable incidents*

- (3) A description of each event in the behaviour of a greenhouse gas substance in the formation that, if it causes, or has the potential to cause, a serious situation to exist in relation to the formation, will be a reportable incident in relation to the formation, being events such as the following:
  - (a) a departure from a predicted migration pathway of a greenhouse gas substance;
  - (b) a departure from a predicted migration rate of a greenhouse gas substance.

### *Detection and monitoring plan—leakage*

- (4) A plan for detecting and monitoring the leakage of a greenhouse gas substance stored in the formation to the seabed.

## 7 Detecting and monitoring leakages during transport and injection

A program for detecting and monitoring the following:

- (a) a leakage of a greenhouse gas substance during its transport for the purpose of injection into the formation;
- (b) a leakage of a greenhouse gas substance at the point of injection into the formation.

## 8 Detecting and monitoring leakages from well bores

A program for detecting and monitoring a leakage of a greenhouse gas substance from a well bore.

## 9 Site closure—remediation and monitoring

### *Plan for remediation work*

- (1) A plan for carrying out any work that is required to remediate the formation, including in relation to the following:

- (a) the plugging or closing off of wells;
- (b) stabilising the subsurface of the formation;
- (c) remediating any abandoned wells or other features that could pose a risk of leakage of a greenhouse gas substance stored in the formation after a site closing certificate has been issued in relation to the formation.

*Plan for monitoring behaviour of stored greenhouse gas substances*

- (2) A plan for monitoring the behaviour of greenhouse gas substances stored in the formation after the ceasing of operations for the injection of greenhouse gas substances into the formation.