



Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2009

Statutory Rules No. 228, 1999

made under the

Offshore Petroleum and Greenhouse Gas Storage Act 2006

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About this compilation

This compilation

This is a compilation of the *Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2009* that shows the text of the law as amended and in force on 28 April 2020 (the *compilation date*).

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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Part 1—Preliminary

1 Name of Regulations

These Regulations are the *Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2009*.

3 Object of Regulations

The object of these Regulations 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.

4 Definitions

In these Regulations, unless the contrary intention appears:

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

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

activity means a petroleum activity or a greenhouse gas activity.

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.

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

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

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

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

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

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

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

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

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

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

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

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

(c) the operation of the plan has not ended.

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

Note: See Part 1A.

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

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

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

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 the Regulator.

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

Regulator means NOPSEMA.

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relevant person has the meaning given by subregulation 11A(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, for 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;
- (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).

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 regulation 11A in the course of preparing the plan or in comments described in subregulation 11B(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 by a relevant person in consultation under regulation 11A in the course of preparing the plan or by a person in comments described in subregulation 11B(2) in connection with the plan; and
 - (ii) that the giver requested not be published.

Note: Regulation 11A requires consultation of relevant persons in the course of preparing any environment plan. Subregulation 11B(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 more of the following and is clearly indicated as containing only one or more of the following:

- (a) sensitive information;
- (b) a copy of the full text of any response by a relevant person in consultation under regulation 11A in the course of preparing the plan.

the regulations means regulations (including these Regulations) made under the Act.

titleholder means:

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

5 References to an activity

A reference in these Regulations to an activity includes, where the context permits, a reference to:

- (a) a proposed activity; and
- (b) any stage of an activity.

Part 1A—Offshore project proposals

5A Submission of an offshore project proposal

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

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

Note 2: A fee is payable for considering the proposal—see regulation 32.

- (4) The proposal must be in writing.
- (5) The proposal must:
 - (a) include the proponent's name and contact details; and
 - (b) include a summary of the project, including the following:
 - (i) a description of each activity that is part of the project;
 - (ii) the location or locations of each activity;
 - (iii) a proposed timetable for carrying out the project;
 - (iv) a description of the facilities that are proposed to be used to undertake each activity;
 - (v) a description of the actions proposed to be taken, following completion of the project, in relation to those facilities; and
 - (c) describe the existing environment that may be affected by the project; and
 - (d) include details of the particular relevant values and sensitivities (if any) of that environment; and
 - (e) set out the environmental performance outcomes for the project; and
 - (f) describe any feasible alternative to the project, or an activity that is part of the project, including:
 - (i) a comparison of the environmental impacts and risks arising from the project or activity and the alternative; and

- (ii) an explanation, in adequate detail, of why the alternative was not preferred.

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

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

5B Further information

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

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- (b) the Regulator must have regard to the information as if it had been included in the submitted proposal.

5C Suitability of offshore project proposal for publication

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

5D Actions after publication of offshore project proposal

- (1) As soon as practicable after the end of the period of public comment for an offshore project proposal mentioned in subparagraph 5C(3)(b)(ii), the proponent:
 - (a) may alter the content of the proposal; and
 - (b) must give the Regulator another copy of the proposal (whether or not the proponent has altered its content); and
 - (c) must include with the copy of the proposal:
 - (i) a summary of all comments received; and
 - (ii) an assessment of the merits of each objection or claim about the project or any activity that is part of the project; and
 - (iii) a statement of the proponent's response or proposed response to each objection or claim, including a demonstration of the changes, if any, that have been made to the proposal as a result of an objection or claim.
- (2) If the proponent gives the Regulator a copy of the proposal as described in paragraph (1)(b), the Regulator may request the proponent to provide further written information about:
 - (a) any matter required by regulation 5A to be included in the proposal; or
 - (b) any matter required by paragraph (1)(c) to be included with a copy of the proposal.
- (3) The request must:
 - (a) be in writing; and
 - (b) set out each matter for which information is requested; and
 - (c) specify a reasonable period within which the information is to be provided.
- (4) If the proponent receives a request, and provides information requested by the Regulator within the period specified or within a longer period agreed to by the Regulator:
 - (a) if the information is about a matter required by regulation 5A to be included in the proposal—the information becomes part of the proposal and the Regulator must have regard to the information as if it had been included in the submitted proposal; and
 - (b) if the information is about a matter required by paragraph (1)(c) to be included with a copy of the proposal—the Regulator must have regard to the information as if it had been so included.
- (5) Within 30 days after the proponent gives the Regulator a copy of the proposal as described in paragraph (1)(b):
 - (a) if the Regulator is reasonably satisfied that the proposal meets the criteria set out in subregulation (6), the Regulator must accept the proposal; or
 - (b) if the Regulator is not reasonably satisfied that the proposal meets the criteria set out in subregulation (6), the Regulator must refuse to accept the proposal; or

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- (c) if the Regulator is unable to make a decision on the proposal within the 30 day period, the Regulator must give the proponent notice in writing and set out a proposed timetable for consideration of the proposal.
- (6) For subregulation (5), the criteria are that the proposal:
 - (a) adequately addresses comments given during the period for public comment; and
 - (b) is appropriate for the nature and scale of the project; and
 - (c) appropriately identifies and evaluates the environmental impacts and risks of the project; and
 - (d) sets out appropriate environmental performance outcomes that:
 - (i) are consistent with the principles of ecologically sustainable development; and
 - (ii) demonstrate that the environmental impacts and risks of the project will be managed to an acceptable level; and
 - (e) does not involve an activity or part of an activity being undertaken in any part of a declared World Heritage property within the meaning of the EPBC Act.
- (7) If the Regulator accepts the proposal, the Regulator must, within 10 days after making the decision, publish the accepted proposal on the Regulator's website.
- (8) If the Regulator refuses to accept the proposal, the Regulator must, as soon as practicable:
 - (a) notify the proponent, in writing, of the decision; and
 - (b) publish a notice on the Regulator's website setting out the decision and the reasons for it.
- (9) A decision by the Regulator to accept, or refuse to accept, the proposal is not invalid only because the Regulator did not comply with the 30 day period in subregulation (5) in relation to the proposal.

5E Withdrawal of offshore project proposal

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

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

- (1) This regulation applies to an activity that a person proposes to commence for at least one of the following purposes (whether or not the activity is undertaken for other purposes):
 - (a) exploration for petroleum;
 - (b) recovering petroleum on an appraisal basis;

- (c) exploration for a potential greenhouse gas storage formation;
 - (d) exploration for a potential greenhouse gas injection site;
 - (e) injecting or storing, on an appraisal basis, a greenhouse gas substance in a part of a geological formation;
 - (f) injecting or permanently storing a greenhouse gas substance into an identified greenhouse gas storage formation;
 - (g) the conveyance of a greenhouse gas substance by pipeline;
 - (h) decommissioning a facility, a petroleum pipeline or a greenhouse gas pipeline.
- (2) If a person wishes to use the arrangements in this Part for one or more activities to which this regulation applies, the person may:
- (a) prepare an offshore project proposal for the activity or activities as if they were an offshore project; and
 - (b) submit the proposal to the Regulator.
- (3) If a person submits an offshore project proposal to the Regulator under subregulation (2):
- (a) subregulations 5A(4) to (8), regulations 5B to 5E and regulation 32 apply as if the activity or activities were an offshore project; but
 - (b) the activity or activities are not otherwise to be treated as an offshore project.

Part 1B—Financial assurance

5G Demonstration of financial assurance prior condition for acceptance of environment plan

- (1) This regulation applies:
 - (a) if:
 - (i) an environment plan for a petroleum activity is submitted under regulation 9; and
 - (ii) there is a titleholder in relation to the activity immediately before the Regulator decides whether or not to accept the plan under regulation 10; or
 - (b) if a proposed revision of an environment plan for a petroleum activity is submitted under regulation 17, 18 or 19.
- (2) For paragraphs 571(3)(a) and (b) of the Act, NOPSEMA must not accept the environment plan, or the proposed revision of the environment plan, 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 withdrawal of acceptance of an environment plan—see paragraph 23(2)(e).

Part 2—Environment plans

Division 2.1—Requirement for an environment plan

6 Accepted environment plan required for an activity

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

Penalty: 80 penalty units.

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

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

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

Note: The term ‘the regulations’ is defined in regulation 4 to mean ‘..regulations (including these Regulations) made under the Act’.

7 Operations must comply with the accepted environment plan

- (1) A titleholder must not undertake an activity in a way that is contrary to:
 - (a) the environment plan in force for the activity; or
 - (b) any limitation or condition applying to operations for the activity under these Regulations.

Penalty: 80 penalty units.

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

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

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

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

- (3) The Regulator must not give a consent under subregulation (2) unless there are reasonable grounds for believing that the way in which the activity is to be carried out will not result in the occurrence of any significant new environmental impact or risk, or significant increase in any existing environmental impact or risk.

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

- (1) A titleholder commits an offence if:
 - (a) the titleholder undertakes an activity after the occurrence of:

Part 2 Environment plans

Division 2.1 Requirement for an environment plan

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- (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.

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

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

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

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

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

Division 2.2—Acceptance of an environment plan

9 Submission of an environment plan

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

Submission of plan for offshore project

- (3) However, a titleholder (or an applicant for a title) may submit an environment plan for an activity that is, or is part of, an offshore project only if:
 - (a) the Regulator has accepted an offshore project proposal that includes that activity; or
 - (b) the Environment Minister:
 - (i) has made a decision under section 75 of the EPBC Act that an action that is equivalent to or includes the activity is not a controlled action; or
 - (ii) has made a component decision under section 77A of the EPBC Act that a particular provision of Part 3 of that Act is not a controlling provision for an action that is equivalent to or includes the activity, because the Minister believes the action will be taken in a particular manner; or
 - (iii) has approved, under Part 9 of the EPBC Act, the taking of an action that is equivalent to or includes the activity.
- (4) If a titleholder (or an applicant for a title) submits an environment plan for an activity in contravention of subregulation (3), the plan is taken not to have been submitted.
- (5) For subparagraph (3)(b)(iii), despite section 146D of the EPBC Act an approval by the Environment Minister under section 146B of that Act is not taken to be an approval under Part 9 of that Act of the taking of an action.

Form of environment plan

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

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Division 2.2 Acceptance of an environment plan

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- (c) more than one activity; or
 - (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 regulation 11A 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 16(b)(iv) requires the plan to contain a copy of the full text of any response by a relevant person to consultation under regulation 11A in the course of preparation of the plan.

9AA Checking completeness of submitted environment plan

Within 5 business days after an environment plan is submitted to the Regulator under regulation 9, resubmitted in response to an invitation under regulation 9AC or resubmitted under subregulation 11C(2), the Regulator must decide provisionally whether the plan includes material apparently addressing all the provisions of Division 2.3 (Contents of an environment plan).

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

9AB Publishing environment plan and associated information

If the Regulator's provisional decision under regulation 9AA is that the environment plan includes material apparently addressing all the provisions of Division 2.3 (Contents of an environment plan), the Regulator must publish on the Regulator'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 person for the activity.

Note: If the plan is a seismic or exploratory drilling environment plan, the Regulator must also publish an invitation for public comment on the plan: see regulation 11B.

9AC Action on incomplete environment plan

If the Regulator's provisional decision under regulation 9AA is that the environment plan does not include material apparently addressing all the provisions of Division 2.3 (Contents of an environment plan), the Regulator 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 environment plan and resubmit it to the Regulator.

9A Further information

- (1) If a titleholder submits an environment plan, the Regulator may request the titleholder to provide further written information about any matter required by these Regulations to be included in an environment plan.
- (2) The request must:
 - (a) be in writing; and
 - (b) set out each matter for which information is requested; and
 - (c) specify a reasonable period within which the information is to be provided.
- (3) In providing information requested by the Regulator, the titleholder must resubmit to the Regulator the environment plan with the information incorporated, whether or not the titleholder also provides the information separately.
- (4) The Regulator must have regard to information that was requested by the Regulator, and provided by the titleholder in a resubmitted environment plan within the period specified or within a longer period agreed to by the Regulator.

10 Making decision on submitted environment plan

- (1) Within 30 days after the day described in subregulation (1A) for an environment plan submitted by a titleholder:
 - (a) if the Regulator is reasonably satisfied that the environment plan meets the criteria set out in regulation 10A, the Regulator must accept the plan; or
 - (b) if the Regulator is not reasonably satisfied that the environment plan meets the criteria set out in regulation 10A, the Regulator must give the titleholder notice in writing under subregulation (2); or
 - (c) if the Regulator is unable to make a decision on the environment plan within the 30 day period, the Regulator must give the titleholder notice in writing and set out a proposed timetable for consideration of the plan.
- (1A) For the purposes of subregulation (1), the day is:
 - (a) the day the Regulator publishes the plan (with the sensitive information part removed) under regulation 9AB; or
 - (b) if the environment plan is a seismic or exploratory drilling environment plan—the day the Regulator receives the documents under paragraph 11B(3)(b) and, if relevant, paragraph 11B(3)(c).

Note 1: Those paragraphs are about documents that must be given to the Regulator after the end of a 30-day period for public comment on a seismic or exploratory drilling environment plan. Regulation 11B requires the Regulator to consider certain public comments on a seismic or exploratory drilling environment plan in making a decision to take action under this regulation.

Note 2: A seismic or exploratory drilling environment plan is taken to have been withdrawn (so the Regulator need not act under this regulation in relation to it) if the Regulator does not receive the documents under paragraph 11B(3)(b) and, if relevant, paragraph 11B(3)(c): see subregulation 11B(7).

- (2) A notice to a titleholder under this subregulation must:
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- (a) state that the Regulator is not reasonably satisfied that the environment plan submitted by the titleholder meets the criteria set out in regulation 10A; and
 - (b) identify the criteria set out in regulation 10A about which the Regulator is not reasonably satisfied; and
 - (c) set a date by which the titleholder may resubmit the plan.
- (3) The date referred to in paragraph (2)(c) must give the titleholder a reasonable opportunity to modify and resubmit the plan.
- (4) Within 30 days after the titleholder has resubmitted the modified plan:
- (a) if the Regulator is reasonably satisfied that the environment plan meets the criteria set out in regulation 10A, the Regulator must accept the plan; or
 - (b) if the Regulator is still not reasonably satisfied that the environment plan meets the criteria set out in regulation 10A, the Regulator must:
 - (i) give the titleholder a further notice under subregulation (2); or
 - (ii) refuse to accept the plan; or
 - (iii) act under subregulation (6); or
 - (c) if the Regulator is unable to make a decision on the environment plan within the 30 day period, the Regulator must give the titleholder notice in writing and set out a proposed timetable for consideration of the plan.
- (5) If the titleholder does not resubmit the plan by the date referred to in paragraph (2)(c), or a later date agreed to by the Regulator, the Regulator must:
- (a) refuse to accept the plan; or
 - (b) act under subregulation (6).
- (6) For subparagraph (4)(b)(iii) and paragraph (5)(b), the Regulator may do either or both of the following:
- (a) accept the plan in part for a particular stage of the activity;
 - (b) accept the plan subject to limitations or conditions applying to operations for the activity.
- (7) A decision by the Regulator to accept, or refuse to accept, an environment plan is not invalid only because the Regulator did not comply with the 30 day period in subregulation (1) or (4).

10A Criteria for acceptance of environment plan

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

- (a) is appropriate for the nature and scale of the activity; and
- (b) demonstrates that the environmental impacts and risks of the activity will be reduced to as low as reasonably practicable; and
- (c) demonstrates that the environmental impacts and risks of the activity will be of an acceptable level; and
- (d) provides for appropriate environmental performance outcomes, environmental performance standards and measurement criteria; and

- (e) includes an appropriate implementation strategy and monitoring, recording and reporting arrangements; and
- (f) does not involve the activity or part of the activity, other than arrangements for environmental monitoring or for responding to an emergency, being undertaken in any part of a declared World Heritage property within the meaning of the EPBC Act; and
- (g) demonstrates that:
 - (i) the titleholder has carried out the consultations required by Division 2.2A; and
 - (ii) the measures (if any) that the titleholder has adopted, or proposes to adopt, because of the consultations are appropriate; and
- (h) complies with the Act and the regulations.

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

Notice to titleholder

- (1) The Regulator must give the titleholder notice in writing of a decision by the Regulator to:
 - (a) accept the environment plan; or
 - (b) refuse to accept the plan; or
 - (c) accept the plan in part for a particular stage of the activity, or subject to limitations or conditions.

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 regulation 5G.

- (2) A notice of a decision mentioned in paragraph (1)(b) or (c) must set out:
 - (a) the terms of the decision and the reasons for it; and
 - (b) any limitations or conditions that are to apply to operations for the activity.

Publication of notice etc.

- (2A) As soon as practicable after giving the notice of the decision to the titleholder, the Regulator must publish on the Regulator'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 subregulation 11B(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);

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a statement by the Regulator as to how the Regulator took the comments into account in making the decision.

- (2B) The statement by the Regulator must not include sensitive information relating to the plan from the comments.

Submission of summary of accepted plan

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

Publication of summary

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

11AA Withdrawal of environment plan before decision

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

Division 2.2A—Consultation in preparing an environment plan

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

- (1) In the course of preparing an environment plan, or a revision of an environment plan, a titleholder must consult each of the following (a *relevant person*):
 - (a) each Department or agency of the Commonwealth to which the activities to be carried out under the environment plan, or the revision of the environment plan, may be relevant;
 - (b) each Department or agency of a State or the Northern Territory to which the activities to be carried out under the environment plan, or the revision of the environment plan, may be relevant;
 - (c) the Department of the responsible State Minister, or the responsible Northern Territory Minister;
 - (d) a person or organisation whose functions, interests or activities may be affected by the activities to be carried out under the environment plan, or the revision of the environment plan;
 - (e) any other person or organisation that the 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 2.2B—Public comment on a submitted seismic or exploratory drilling environment plan

11B Public comments on seismic or exploratory drilling environment plan

Regulator must invite comments from the public

- (1) When the Regulator publishes a seismic or exploratory drilling environment plan (with the sensitive information part removed) on the Regulator’s website under regulation 9AB, the Regulator must also publish in the same place an invitation for any person:
 - (a) to give the Regulator, within 30 days, written comments on the matters described in Division 2.3 (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.

Regulator must give titleholder copies of comments

- (2) As soon as practicable after receiving comments described in subregulation (1) within the period mentioned in that subregulation, the Regulator 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 subregulation (1), the titleholder:
 - (a) may modify the plan; and
 - (b) must (whether the titleholder modifies the plan or not) resubmit the plan (as modified, if relevant) to the Regulator within 12 months after the end of that period; and
 - (c) if the titleholder received a copy of comments under subregulation (2)—must, when resubmitting the plan under paragraph (b), give the Regulator 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 subregulation (7) for the consequences if the titleholder does not comply with paragraph (3)(b).

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

Regulator must publish plan and statement within 5 business days

- (5) Within 5 business days after receiving the plan under paragraph (3)(b), the Regulator must:

- (a) publish it on the Regulator's website with the sensitive information part removed; and
- (b) if the Regulator receives a statement under paragraph (3)(c) with the plan—publish the statement on the Regulator's website.

Regulator must consider comments in acting under regulation 10

- (6) In making a decision to take an action under regulation 10 relating to the plan, the Regulator:
 - (a) must consider the comments (if any) described in subregulation (2) of this regulation; 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 does not comply with paragraph (3)(b), the titleholder is taken for the purposes of these Regulations and the *Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Regulations 2004* to have withdrawn the plan under subregulation 11AA(1) at the end of the 12 months mentioned in that paragraph.

Note: Subregulation 11AA(2) requires the Regulator to publish notice of the withdrawal on the Regulator's website.

11C Seismic or exploratory drilling environment plan to be resubmitted for fresh completeness check and public comments if significantly modified

- (1) This regulation applies if:
 - (a) the titleholder who submitted a seismic or exploratory drilling environment plan modifies it (under subregulation 11B(3) or otherwise); 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 made:
 - (i) after the Regulator published the plan (with the sensitive information part removed) under regulation 9AB or subregulation 11B(5); and
 - (ii) before the Regulator makes a decision under regulation 10 to accept, or refuse to accept, the plan.
- (2) The titleholder must resubmit the plan (as modified) to the Regulator.

Note: Under regulation 9AA the Regulator must decide provisionally whether the resubmitted plan includes material apparently addressing all the provisions of Division 2.3 (Contents of an environment plan). If the Regulator decides provisionally that the resubmitted plan does, the Regulator must publish the resubmitted plan and an invitation for anyone to comment on matters relating to the resubmitted plan: see regulations 9AB and 11B.

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Division 2.2B Public comment on a submitted seismic or exploratory drilling environment plan

Regulation 11C

- (3) The Regulator must cease to act under Division 2.2 and this Division in relation to the plan as it existed before the modification.

Division 2.3—Contents of an environment plan

12 Contents of an environment plan

An environment plan for an activity must include the matters set out in regulations 13, 14, 15 and 16.

13 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;
 - (c) an outline of the operational details of the activity (for example, seismic surveys, exploration drilling or production) and proposed timetables;
 - (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 the Regulator if an activity or part of the activity, other than arrangements for environmental monitoring or for responding to an emergency, will be undertaken in any part of a declared World Heritage property—see regulation 10A.

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 particular relevant values and sensitivities (if any) of that environment.

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

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

Regulation 14

Requirements

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

Evaluation of environmental impacts and risks

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

Environmental performance outcomes and standards

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

14 Implementation strategy for the environment plan

- (1) The environment plan must contain an implementation strategy for the activity in accordance with this regulation.
- (2) The implementation strategy must:
- (a) state when the titleholder will report to the Regulator in relation to the titleholder's environmental performance for the activity; and
 - (b) provide that the interval between reports will not be more than 1 year.

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

- (3) The implementation strategy must contain a description of the environmental management system for the activity, including specific measures to be used to ensure that, for the duration of the activity:
 - (a) the environmental impacts and risks of the activity continue to be identified and reduced to a level that is as low as reasonably practicable; and
 - (b) control measures detailed in the environment plan are effective in reducing the environmental impacts and risks of the activity to as low as reasonably practicable and an acceptable level; and
 - (c) environmental performance outcomes and standards set out in the environment plan are being met.
- (4) The implementation strategy must establish a clear chain of command, setting out the roles and responsibilities of personnel in relation to the implementation, management and review of the environment plan, including during emergencies or potential emergencies.
- (5) The implementation strategy must include measures to ensure that each employee or contractor working on, or in connection with, the activity is aware of his or her responsibilities in relation to the environment plan, including during emergencies or potential emergencies, and has the appropriate competencies and training.
- (6) The implementation strategy must provide for sufficient monitoring, recording, audit, management of nonconformance and review of the titleholder's environmental performance and the implementation strategy to ensure that the environmental performance outcomes and standards in the environment plan are being met.
- (7) The implementation strategy must provide for sufficient monitoring of, and maintaining a quantitative record of, emissions and discharges (whether occurring during normal operations or otherwise), such that the record can be used to assess whether the environmental performance outcomes and standards in the environment plan are being met.
- (8) The implementation strategy must contain an oil pollution emergency plan and provide for the updating of the plan.
- (8AA) The oil pollution emergency plan must include adequate arrangements for responding to and monitoring oil pollution, including the following:
 - (a) the control measures necessary for timely response to an emergency that results or may result in oil pollution;
 - (b) the arrangements and capability that will be in place, for the duration of the activity, to ensure timely implementation of the control measures, including arrangements for ongoing maintenance of response capability;
 - (c) the arrangements and capability that will be in place for monitoring the effectiveness of the control measures and ensuring that the environmental performance standards for the control measures are met;
 - (d) the arrangements and capability in place for monitoring oil pollution to inform response activities.

Regulation 15

- (8A) The implementation strategy must include arrangements for testing the response arrangements in the oil pollution emergency plan that are appropriate to the response arrangements and to the nature and scale of the risk of oil pollution for the activity.
- (8B) The arrangements for testing the response arrangements must include:
- (a) a statement of the objectives of testing; and
 - (b) a proposed schedule of tests; and
 - (c) mechanisms to examine the effectiveness of response arrangements against the objectives of testing; and
 - (d) mechanisms to address recommendations arising from tests.
- (8C) The proposed schedule of tests must provide for the following:
- (a) testing the response arrangements when they are introduced;
 - (b) testing the response arrangements when they are significantly amended;
 - (c) testing the response arrangements not later than 12 months after the most recent test;
 - (d) if a new location for the activity is added to the environment plan after the response arrangements have been tested, and before the next test is conducted—testing the response arrangements in relation to the new location as soon as practicable after it is added to the plan;
 - (e) if a facility becomes operational after the response arrangements have been tested and before the next test is conducted—testing the response arrangements in relation to the facility when it becomes operational.
- (8D) The implementation strategy must provide for monitoring of impacts to the environment from oil pollution and response activities that:
- (a) is appropriate to the nature and scale of the risk of environmental impacts for the activity; and
 - (b) is sufficient to inform any remediation activities.
- (8E) The implementation strategy must include information demonstrating that the response arrangements in the oil pollution emergency plan are consistent with the national system for oil pollution preparedness and response.
- (9) The implementation strategy must provide for appropriate consultation with:
- (a) relevant authorities of the Commonwealth, a State or Territory; and
 - (b) other relevant interested persons or organisations.
- (10) The implementation strategy must comply with the Act, the regulations and any other environmental legislation applying to the activity.

15 Details of titleholder and liaison person

- (1) The environment plan must include the following details for the titleholder:
- (a) name;
 - (b) business address;
 - (c) telephone number (if any);

- (d) fax number (if any);
 - (e) email address (if any);
 - (f) if the titleholder is a body corporate that has an ACN (within the meaning of the *Corporations Act 2001*)—ACN.
- (2) The environment plan must also include the following details for the titleholder's nominated liaison person:
- (a) name;
 - (b) business address;
 - (c) telephone number (if any);
 - (d) fax number (if any);
 - (e) email address (if any).
- (3) The environment plan must include arrangements for notifying the Regulator of a change in the titleholder, a change in the titleholder's nominated liaison person or a change in the contact details for either the titleholder or the liaison person.

16 Other information in the 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 regulation 11A 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 2.4—Revision of an environment plan

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

New activity

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

Submission of revision for activity in offshore project

- (2) However, a titleholder may submit a proposed revision of an environment plan for a new activity that is, or is part of, an offshore project only if:
 - (a) the Regulator has accepted an offshore project proposal that includes the new activity; or
 - (b) the Environment Minister:
 - (i) has made a decision under section 75 of the EPBC Act that an action that is equivalent to or includes the new activity is not a controlled action; or
 - (ii) has made a component decision under section 77A of the EPBC Act that a particular provision of Part 3 of that Act is not a controlling provision for an action that is equivalent to or includes the new activity, because the Minister believes the action will be taken in a particular manner; or
 - (iii) has approved, under Part 9 of the EPBC Act, the taking of an action that is equivalent to or includes the new activity.
- (3) If a titleholder submits a proposed revision of an environment plan for a new activity in contravention of subregulation (2), the revision is taken not to have been submitted.
- (4) For subparagraph (2)(b)(iii), despite section 146D of the EPBC Act an approval by the Environment Minister under section 146B of that Act is not taken to be an approval under Part 9 of that Act of the taking of an action.

Significant modification or new stage of activity

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

New or increased environmental impact or risk

- (6) A titleholder must submit a proposed revision of the environment plan for an activity before, or as soon as practicable after:

- (a) the occurrence of any significant new environmental impact or risk, or significant increase in an existing environmental impact or risk, not provided for in the environment plan in force for the activity; or
- (b) the occurrence of a series of new environmental impacts or risks, or a series of increases in existing environmental impacts or risks, which, taken together, amount to the occurrence of:
 - (i) a significant new environmental impact or risk; or
 - (ii) a significant increase in an existing environmental impact or risk;that is not provided for in the environment plan in force for the activity.

Change in titleholder

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

Transitional arrangements—changes to management of impacts and risks

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

18 Revision on request by the Regulator

- (1) A titleholder must submit to the Regulator a proposed revision of the environment plan for an activity if the Regulator requests the titleholder to do so.
- (2) A request by the Regulator must be in writing and set out the following:
 - (a) the matters to be addressed by the revision;
 - (b) the proposed date of effect of the revision;
 - (c) the grounds for the request.

Regulation 18

- (3) The titleholder may make a submission in writing to the Regulator stating the titleholder's reasons for 1 or more of the following matters:
 - (a) why the revision should not occur;
 - (b) why the revision should be in different terms from the proposed terms;
 - (c) whether or not the titleholder gives other reasons—why the revision should take effect on a date later than the proposed date.
 - (4) A submission by the titleholder must be made within 21 days after receiving the request, or within any longer period that the Regulator in writing allows.
 - (5) If a submission complies with subregulations (3) and (4), the Regulator must:
 - (a) decide whether to accept 1 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 the Regulator 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 the Regulator does not accept the reasons, give the titleholder notice in writing of the grounds for not accepting them.
 - (6) A titleholder must comply with a request made by the Regulator under subregulation (1) and not withdrawn, or with a variation of a request under paragraph (5)(c), as soon as practicable.
 - (7) Subregulations (8) to (13) apply if an environment plan:
 - (a) was accepted by the Designated Authority before the commencement day; and
 - (b) is continued in force under regulation 40.
- Note: As a result of amendments made by the *Offshore Petroleum and Greenhouse Gas Storage Amendment (National Regulator) Act 2011*, NOPSEMA, as the new Regulator, may consider it appropriate to request revision of environment plans that were accepted by a different Regulator.
- (8) The titleholder for the activity to which the plan relates must submit to the Regulator a proposed revision of the plan if the Regulator requests the titleholder to do so.
 - (9) The Regulator may make a request under subregulation (8) if the Regulator is not satisfied that the environment plan meets one or more of the criteria set out in subregulation 11(1).
 - (10) If the Regulator makes a request under subregulation (8), the Regulator must identify the criteria set out in subregulation 11(1) about which the Regulator is not satisfied.
 - (11) If the Regulator makes a request under subregulation (8), the titleholder may, within 21 days after receiving the request, or within a longer period that the Regulator, in writing, allows, make a written submission to the Regulator setting out the titleholder's reasons why the plan meets the criteria identified by the Regulator in the request.

- (12) If a titleholder makes a submission under subregulation (11), the Regulator must:
- (a) decide whether to accept one or more of the reasons stated in the submission; and
 - (b) give the titleholder notice, in writing, of the decision; and
 - (c) to the extent (if any) that the Regulator 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 the Regulator does not accept the reasons, give the titleholder notice, in writing, of the grounds for not accepting them.
- (13) A titleholder must comply with a request made by the Regulator under subregulation (8) and not withdrawn, or a request as varied under paragraph (12)(c), as soon as practicable.
- (14) In this regulation:

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

19 Revision at the end of each 5 years

- (1) A titleholder must submit to the Regulator a proposed revision of the environment plan for an activity at least 14 days before the end of each period of 5 years, commencing on the latest of the following:
- (a) the day on which the environment plan is first accepted under regulation 10 by the Regulator;
 - (b) the day on which a revised environment plan submitted under this regulation is accepted under regulation 10 by the Regulator;
 - (c) for a revision of an environment plan submitted under regulation 17 or 18, the day (if any) notified by the Regulator under subregulation (2).
- (2) For paragraph (1)(c), the Regulator may notify the titleholder that the effect of a revision of an environment plan submitted under regulation 17 or 18 is that the period of 5 years mentioned in subregulation (1) starts on the date specified in the notification.

20 Form of proposed revision

A proposed revision must be in the form of a revised environment plan.

21 Acceptance of a revised environment plan

- (1) Regulations 9AA, 9AB, 9AC, 9A, 10, 10A, 11 and 11A, and regulations 11B and 11C if relevant, apply to the proposed revision as if:
- (a) a reference in those regulations to the submission, acceptance or non-acceptance of the environment plan were a reference to the submission, acceptance or non-acceptance of the proposed revision; and

Regulation 22

- (aa) the reference in regulation 9AA to submission of an environment plan under regulation 9 were a reference to the submission of the proposed revision under regulation 17, 18 or 19; and
- (b) any other reference in those regulations to the environment plan were a reference to the plan as revised by the proposed revision.

Note: Regulations 9AA, 9AB, 9AC, 9A, 10, 10A, 11 and 11A deal with the consideration and acceptance of an environment plan, and the consultation required with relevant authorities, persons and organisations. Regulations 11B and 11C deal with public comment on a seismic or exploratory drilling environment plan.

- (2) When acting under regulation 9AB (as applying because of subregulation (1) of this regulation) to publish on the Regulator's website information relating to the proposed revision, the Regulator must also publish in the same place the reason for the proposed revision.
- (3) Despite subregulation (1) of this regulation, paragraph 10(1A)(b) and regulations 11B and 11C do not apply because of that subregulation if the proposed revision:
 - (a) is a revision of a seismic or exploratory drilling environment plan; and
 - (b) is submitted under subregulation 17(6).
- (4) If:
 - (a) regulation 11B applies to the proposed revision (because of subregulation (1) of this regulation); and
 - (b) the titleholder does not comply with paragraph 11B(3)(b) (as so applying);the provisions of the environment plan in force for the activity existing immediately before the proposed revision was submitted remain in force, subject to the Act and these Regulations (particularly Division 2.5), as if the revision had not been proposed.

22 Effect of non-acceptance of proposed revision

If a proposed revision is not accepted, the provisions of the environment plan in force for the activity existing immediately before the proposed revision was submitted remain in force, subject to the Act and these Regulations, (in particular, the provisions of Division 2.5), as if the revision had not been proposed.

Division 2.5—Withdrawal of acceptance of an environment plan

23 Withdrawal of acceptance of environment plan

- (1) The Regulator, by notice in writing to the titleholder for an activity, may withdraw the acceptance of the environment plan for the activity on any ground set out in subregulation (2).
- (2) For subregulation (1), the grounds are that:
 - (a) the titleholder has not complied with:
 - (i) a provision of the Act relating to environmental requirements; or
 - (ii) a direction given by the Regulator under section 574, 576B, 579A, 586 or 591B; or
 - (iii) a direction given by the responsible Commonwealth Minister under section 580 or 592; or
 - (b) the titleholder has not complied with regulation 7, 8, 17, 18 or 19; or
 - (c) the Regulator has refused to accept a proposed revision of the environment plan; or
 - (d) the Regulator is not reasonably satisfied, after 2 or more requests for modification of a report on environmental performance under subregulation 26C(3), that the titleholder has given the Regulator sufficient information to enable the Regulator to determine whether the environmental performance outcomes and standards in the environment plan have been met; or
 - (e) for 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.
- (3) A notice under subregulation (1) must set out the reasons for the decision.

24 Steps to be taken before withdrawal of acceptance

- (1) Before withdrawing the acceptance of an environment plan for an activity the Regulator must comply with subregulations (2), (4) and (5).
- (2) The Regulator must give the titleholder at least 30 days notice in writing of the Regulator's intention to withdraw acceptance of the plan.
- (3) The Regulator may give a copy of the notice to such other persons (if any) as the Regulator thinks fit.
- (4) The Regulator must specify in the notice a date (the *specified date*) on or before which the titleholder (or any other person to whom a copy of the notice has been given) may submit to the Regulator, in writing, any matters for the Regulator to take into account.
- (5) The Regulator 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

Regulation 25

- (b) any matter submitted to the Regulator before the specified date by the titleholder or a person to whom a copy of the notice has been given.

25 Withdrawal of acceptance not affected by other provisions

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

Division 2.6—End of environment plan

25A Plan ends when titleholder notifies completion

The operation of an environment plan ends when:

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

Part 3—Incidents, reports and records

26 Notifying reportable incidents

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

Penalty: 40 penalty units.

- (2) However, it is a defence to a prosecution for an offence against subregulation (1) if the titleholder has a reasonable excuse.

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

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

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

- (4) A notification under subregulation (1):
 - (a) must be given to the Regulator; and
 - (b) 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
 - (c) must be oral; and
 - (d) must contain:
 - (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 environment 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.
- (5) Subregulation 11A.01(5) of the *Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2011* does not apply to a notification mentioned in subregulation (1).
- (6) As soon as practicable after the titleholder notifies a reportable incident, the titleholder must give a written record of the notification to:
 - (a) the Regulator; and
 - (b) the Titles Administrator; and

Regulation 26A

- (c) the Department of the responsible State Minister, or the responsible Northern Territory Minister.
- (7) The titleholder is not required to include in the record anything that was not included in the notification.

26A Written report of reportable incidents

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

Penalty: 40 penalty units.

- (2) However, it is a defence to a prosecution for an offence against subregulation (1) if the titleholder has a reasonable excuse.

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

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

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

- (4) A written report under subregulation (1):
 - (a) must be given to the Regulator; and
 - (b) 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 the Regulator 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
 - (c) must contain:
 - (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 environment 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.
- (5) Within 7 days after giving a written report of a reportable incident to the Regulator, the titleholder must give a copy of the report to:
 - (a) the Titles Administrator; and
 - (b) the Department of the responsible State Minister, or the responsible Northern Territory Minister.

Regulation 26AA

26AA Additional written reports if requested

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

Penalty: 40 penalty units.

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

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

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

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

26B Reporting recordable incidents

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

Penalty: 40 penalty units.

- (2) However, it is a defence to a prosecution for an offence against subregulation (1) if the titleholder has a reasonable excuse.

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

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

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

- (4) A written report under subregulation (1):
 - (a) must be given to the Regulator; and

- (b) must relate to a calendar month; and
- (c) must be given as soon as practicable after the end of the calendar month, and in any case not later than 15 days after the end of the calendar month; and
- (d) must contain:
 - (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 environment 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.

26C Reporting environmental performance

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

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

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

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

27 Storage of records

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

Penalty: 30 penalty units.

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

Regulation 28

Penalty: 30 penalty units.

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

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

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

Penalty: 30 penalty units.

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

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

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

- (7) An offence against subregulation (1), (2) or (4) is an offence of strict liability.

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

28 Making records available

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

Penalty: 30 penalty units.

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

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

Regulation 28

- (2) The titleholder must make copies of the records available to any of the following persons, on request in writing by the person:
 - (a) the Regulator;
 - (c) a NOPSEMA inspector or a Greater Sunrise visiting inspector.
- (3) If the person making the request states that copies of the records be made available to an agent of the person, the titleholder must make the copies available to the agent.
- (4) However, if the titleholder:
 - (b) requests a person who is a NOPSEMA inspector to produce written evidence of the person's appointment as a NOPSEMA inspector; or
 - (c) 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
 - (d) 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 the records available unless the person produces the evidence to the titleholder.
- (5) The copies of the records 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 records are kept.
- (6) The copies of the records must be made available at the place where the records are kept or, if agreed between the titleholder and the person making the request (or the person's agent), at any other place (including by means of electronic transmission to the person or agent at that place).
- (7) If the records are stored on a computer, the records must be made available in print-out form or, if the titleholder and the Regulator so agree, in electronic form.

Part 4—Miscellaneous

Division 4.1—Information requirements

29 Notifying start and end of activity

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

30 Notifying certain operations to State or Territory

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

Penalty: 30 penalty units.

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

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

31 Titleholder may refer to information previously given

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

sufficient or adequate for a purpose different from the one for which it was originally given.

Division 4.2—Fees

32 Offshore project proposals

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

Note 1: Consideration of an offshore project proposal would ordinarily end with a decision by the Regulator whether to accept the proposal. However, the process may terminate before that point (for example, if the proposal is withdrawn): the fee will represent the Regulator's expenses in considering the proposal to whatever point is reached.

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

33 Financial assurance

- (1) For section 685 of the Act, a fee is payable to NOPSEMA by the titleholder for a petroleum activity if NOPSEMA assesses financial assurance arrangements, proposed by the titleholder in relation to the activity, for the purposes of regulation 5G.
- (2) The amount or rate of the fee is an amount or rate determined by the Chief Executive Officer of NOPSEMA and must not exceed the total of the expenses incurred by NOPSEMA for the purposes of assessing the proposed financial assurance arrangements.
- (3) The fee is payable at the time or times agreed in writing between the Chief Executive Officer of NOPSEMA and the titleholder.

Part 5—Transitional arrangements

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

38 Definitions for Division 5.1

In this Division:

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

40 Environment plans accepted before commencement day

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

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

41 Environment plans submitted but not accepted before commencement day

If:

- (a) an environment plan was submitted to the Designated Authority before the commencement day; and
- (b) the Designated Authority neither accepted the plan nor refused to accept the plan before the commencement day;

the plan is taken to have been submitted to the Regulator under regulation 9 on the commencement day.

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

42 Definitions for Division 5.2

In this Division:

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

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

43 Environment plan accepted before commencement of amendments

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

44 Environment plan submitted but not accepted before commencement of amendments

- (1) This regulation applies if:
 - (a) the operator of an activity has:
 - (i) submitted an environment plan for an activity to the Regulator under regulation 9 of the old Regulations; or
 - (ii) submitted a proposed revision of an environment plan for an activity to the Regulator under regulation 17, 18 or 19 of the old Regulations; and
 - (b) the Regulator has not given the operator notice in writing of a decision to accept the plan or proposed revision (whether in full, in part or subject to limitations or conditions) or to refuse to accept the plan or proposed revision.
- (2) The environment plan or proposed revision is taken to have been submitted by the titleholder for the activity, on the date that it was submitted by the operator of the activity.
- (3) The Regulator must make its decision on the acceptance of the plan or proposed revision having regard to the requirements of these Regulations as in force immediately before 28 February 2014.

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

If:

- (a) the Regulator has given the operator of an activity a notice under subregulation 24(2) of the old Regulations of the Regulator's intention to withdraw acceptance of the environment plan for the activity; and
 - (b) the Regulator has not made a decision whether to withdraw acceptance of the environment plan;
- the notice has no effect.

46 Reporting and recording requirements for operators

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

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

47 Reporting on environmental performance

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

- (a) the plan was in force before 28 February 2014 and has not been revised; or
- (b) the plan was in force before 28 February 2014 and any revision of the plan was submitted to the Regulator before 28 February 2014; or
- (c) the plan was submitted to the Regulator under regulation 9 of the old Regulations (but was not yet in force).

48 Notifying operations

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

Part 5 Transitional arrangements

Division 5.3 Transitional arrangements relating to the Offshore Petroleum and Greenhouse Gas Storage (Environment) Amendment (Financial Assurance) Regulation 2014

Regulation 49

Division 5.3—Transitional arrangements relating to the Offshore Petroleum and Greenhouse Gas Storage (Environment) Amendment (Financial Assurance) Regulation 2014

49 Application

The amendments made by items 1, 2 and 5 of Schedule 1 to the *Offshore Petroleum and Greenhouse Gas Storage (Environment) Amendment (Financial Assurance) Regulation 2014* do not apply in relation to an environment plan, or a proposed revision of an environment plan, submitted before 1 January 2015.

**Division 5.4—Transitional arrangements relating to the Offshore
Petroleum and Greenhouse Gas Storage (Environment)
Amendment (Consultation and Transparency)
Regulations 2019**

50 Definitions

In this Division:

amending regulations means the *Offshore Petroleum and Greenhouse Gas Storage (Environment) Amendment (Consultation and Transparency) Regulations 2019*.

51 Application

- (1) Divisions 2.2, 2.2A, 2.2B and 4.1, as amended or inserted by the amending regulations, apply in relation to environment plans submitted under regulation 9 of these Regulations after the commencement of the amending regulations.
- (2) However:
 - (a) Division 2.4, as amended by the amending regulations; and
 - (b) Divisions 2.2, 2.2A, 2.2B and 4.1, as amended or inserted by the amending regulations and applying because of Division 2.4 of these Regulations; apply in relation to proposed revisions of environment plans submitted under regulation 17, 18 or 19 after the commencement of the amending regulations.

Part 5 Transitional arrangements

Division 5.5 Transitional arrangements relating to the Offshore Petroleum and Greenhouse Gas Storage Legislation Amendment (Greenhouse Gas Storage) Regulations 2020

Regulation 52

Division 5.5—Transitional arrangements relating to the Offshore Petroleum and Greenhouse Gas Storage Legislation Amendment (Greenhouse Gas Storage) Regulations 2020

52 Things done by or in relation to the responsible Commonwealth Minister as Regulator

- (1) This regulation applies to a thing done, before the commencement of Schedule 3 to the *Offshore Petroleum and Greenhouse Gas Storage Legislation Amendment (Greenhouse Gas Storage) Regulations 2020*, by or in relation to the responsible Commonwealth Minister as the Regulator for a greenhouse gas activity.
- (2) On and after that commencement, these Regulations apply in relation to the thing as if it had been done by or in relation to NOPSEMA as the Regulator when the thing was done by or in relation to the responsible Commonwealth Minister.

Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

Endnotes

Endnote 2—Abbreviation key

Endnote 2—Abbreviation key

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

Endnote 3—Legislation history

Endnote 3—Legislation history

Number and year	FRLI registration or gazettal	Commencement	Application, saving and transitional provisions
1999 No. 228	29 Sept 1999	1 Oct 1999 (r 2)	
2001 No. 346	21 Dec 2001	21 Dec 2001 (r 2)	—
2005 No. 318	19 Dec 2005 (F2005L03952)	20 Dec 2005 (r 2)	r 4
2009 No. 383	16 Dec 2009 (F2009L04589)	17 Dec 2009 (r 2)	—
2011 No. 251	14 Dec 2011 (F2011L02671)	1 Jan 2011 (r 2 and F2011L02622)	r 4
238, 2013	8 Nov 2013 (F2013L01914)	Sch 2 (items 1, 2): 28 Nov 2013 (s 2 item 3)	—
5, 2014	19 Feb 2014 (F2014L00157)	Sch 1 (items 1–99): 28 Feb 2014 (s 2 item 2) Sch 2: 1 Oct 2014 (s 2 item 3)	—
201, 2014	17 Dec 2014 (F2014L01742)	1 Jan 2015 (s 2)	—

Name	Registration	Commencement	Application, saving and transitional provisions
Offshore Petroleum and Greenhouse Gas Storage (Environment) Amendment (Consultation and Transparency) Regulations 2019	25 Mar 2019 (F2019L00370)	Sch 1 (items 1–25): 25 Apr 2019 (s 2(1) item 1)	—
Offshore Petroleum and Greenhouse Gas Storage Legislation Amendment (Greenhouse Gas Storage) Regulations 2020	3 Apr 2020 (F2020L00400)	Sch 3: 28 Apr 2020 (s 2(1) item 9)	—

Endnotes

Endnote 4—Amendment history

Endnote 4—Amendment history

Provision affected	How affected
Part 1	
r 1	rs No 383, 2009
r 2	rep LA s 48D
r 3	rs No 383, 2009 am No 5, 2014
r 4	am No 318, 2005; No 383, 2009; No 251, 2011; No 5, 2014; F2019L00370; F2020L00400
r 5	am No 383, 2009
Part 1A	
Part 1A	ad No 5, 2014
r 5A	ad No 5, 2014
r 5B	ad No 5, 2014
r 5C	ad No 5, 2014
r 5D	ad No 5, 2014
r 5E	ad No 5, 2014
r 5F	ad No 5, 2014
Part 1B	
Part 1B	ad No 201, 2014
r 5G	ad No 201, 2014
Part 2	
Division 2.1	
r 6	am 2001 No 346; 2005 No 318; 2009 No 383; No 5, 2014
r 7	am 2001 No 346; 2005 No 318; 2009 No 383; No 5, 2014
r 8	am 2001 No 346; 2005 No 318; 2009 No 383; No 5, 2014
Division 2.2	
Division 2.2	rs No 5, 2014
r 9	am No 318, 2005; No 383, 2009 rs No 5, 2014 am F2019L00370
r 9AA	ad F2019L00370
r 9AB	ad F2019L00370
r 9AC	ad F2019L00370
r 9A	ad No 5, 2014 am F2019L00370
r 10	am No 318, 2005; No 383, 2009 rs No 5, 2014 am F2019L00370
r 10A	ad No 5, 2014

Endnote 4—Amendment history

Provision affected	How affected
r 11	am No 318, 2005; No 383, 2009; No 251, 2011 rs No 5, 2014 am No 201, 2014; F2019L00370
r 11AA.....	ad F2019L00370
Division 2.2A	
Division 2.2A	ad No 251, 2011 am F2019L00370
r 11A	ad No 251, 2011 am No 5, 2014; F2019L00370
Division 2.2B	
Division 2.2B	ad F2019L00370
r 11B.....	ad F2019L00370
r 11C.....	ad F2019L00370
Division 2.3	
r 12	am No 383, 2009
r 13	am No 318, 2005; No 383, 2009 am No 5, 2014
r 14	am No 318, 2005; No 383, 2009; No 251, 2011; No 5, 2014
r 15	am No 383, 2009; No 251, 2011 rs No 5, 2014
r 16	am No 318, 2005; No 251, 2011; No 5, 2014; F2019L00370
Division 2.4	
r 17	am No 318, 2005; No 383, 2009 rs No 5, 2014
r 18	am No 383, 2009; No 251, 2011; No 5, 2014
r 19	rs No 383, 2009 am No 5, 2014; F2019L00370
r 20	am No 383, 2009; No 5, 2014; F2019L00370
r 20A	ad No 5, 2014 rep F2019L00370
r 21	am No 383, 2009; No 251, 2011; No 5, 2014; F2019L00370
Division 2.5	
r 23	am No 383, 2009; No 5, 2014; No 201, 2014; F2020L00400
r 24	am No 318, 2005; No 383, 2009; No 5, 2014
r 25	am No 383, 2009; No 5, 2014
Division 2.6	
Division 2.6	ad No 5, 2014
r 25A	ad No 5, 2014
Part 3	
r 26	rs No 346, 2001; No 318, 2005

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
r 26A	am No 383, 2009; No 238, 2013; No 5, 2014 ad No 318, 2005
r 26AA.....	am No 383, 2009; No 5, 2014 ad No 251, 2011 rs No 5, 2014
r 26B.....	ad No 318, 2005 am No 383, 2009; No 5, 2014
r 26C.....	ad No 5, 2014
r 27	am No 346, 2001; No 318, 2005; No 383, 2009 rs No 5, 2014
r 28	am No 346, 2001; No 383, 2009; No 5, 2014; F2020L00400
Part 4	
Division 4.1	
Division 4.1	rs No 5, 2014
r 29	am No 346, 2001 rs No 318, 2005 am No 383, 2009 rs No 5, 2014
r 29A	ad No 318, 2005 am No 383, 2009 rep No 5, 2014
r 30	am No 318, 2005 rs No 5, 2014
r 31	am No 383, 2009 rs No 5, 2014 am F2019L00370
Division 4.2	
Division 4.2	rs No 5, 2014
r 32	am No 346, 2011; No 383, 2009 rs No 5, 2014 am No 201, 2014
r 33	am No 383, 2009 rep No 5, 2014 ad No 201, 2014
r 34	am No 383, 2009 rep No 5, 2014
r 35	am No 383, 2009 rep No 5, 2014
r 36	am No 383, 2009 rep No 5, 2014

Endnote 4—Amendment history

Provision affected	How affected
Division 4.3	rep No 238, 2013
r 37	am No 383, 2009
	rep No 238, 2013
Division 4.4	rep 2005 No 318
Part 5	
Part 5	ad No 251, 2011
	rs No 5, 2014
Division 5.1	
Division 5.1 heading.....	ad No 5, 2014
r 38	rep No 346, 2001
	ad No 251, 2011
	am No 5, 2014
r 39	rep No 318, 2005
	ad No 251, 2011
	rep No 5, 2014
r 40	ad No 251, 2011
	am No 5, 2014
r 41	ad No 251, 2011
Division 5.2	
Division 5.2	ad No 5, 2014
r 42	ad No 5, 2014
r 43	ad No 5, 2014
r 44	ad No 5, 2014
r 45	ad No 5, 2014
r 46	ad No 5, 2014
r 47	ad No 5, 2014
r 48	ad No 5, 2014
Division 5.3	
Division 5.3	ad No 201, 2014
r 49	ad No 201, 2014
Division 5.4	
Division 5.4	ad F2019L00370
r 50	ad F2019L00370
r 51	ad F2019L00370
Division 5.5	
Division 5.5	ad F2020L00400
r 52	ad F2020L00400

Endnotes

Endnote 5—Miscellaneous

Endnote 5—Miscellaneous

The *Petroleum (Submerged Lands) Act 1967* was repealed on 01/07/2008 by the *Offshore Petroleum (Repeals and Consequential Amendments) Act 2006* (No. 17 of 2006) however this instrument remains in force under the transitional provisions in clause 4 of Schedule 6 to the *Offshore Petroleum Act 2006*.