

EXPLANATORY STATEMENT

**Issued by the Authority of the Minister for Resources, Water and Northern Australia,
the Hon Keith Pitt MP**

Offshore Petroleum and Greenhouse Gas Storage Act 2006

Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Act 2003

Offshore Petroleum and Greenhouse Gas Storage Legislation Amendment (Greenhouse Gas Storage) Regulations 2020

The *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (the OPGGS Act) provides the legal framework for the exploration for and recovery of petroleum, and for the injection and storage of greenhouse gas substances, in offshore areas.

Section 781 of the OPGGS Act provides that the Governor-General may make regulations prescribing matters required or permitted by the OPGGS Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the OPGGS Act.

The *Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2011* (the RMA Regulations) provide for regulation of matters relating to resource management, data collection and management, and maintenance of the integrity of offshore petroleum and greenhouse gas wells.

The *Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2009* (the Environment Regulations) provide for the regulation of environmental management of upstream petroleum and greenhouse gas activities in offshore areas.

The *Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Act 2003* (the Levies Act) provides for the imposition of levies in relation to offshore petroleum and greenhouse gas facilities or titles. The levies are collected by the regulator, the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA), in order to fund its operations on a cost-recovery basis.

Section 11 of the Levies Act provides that the Governor-General may make regulations for the purposes of a number of sections of the Levies Act, including sections 5 and 6 (safety investigation levies), 9 and 10 (well investigation levies), 10A and 10B (annual well levies), 10C and 10D (well activity levies) and 10F and 10G (environment plan levies).

The *Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Regulations 2004* (the Levies Regulations) provide for the amounts of levies imposed by the Levies Act, and set out when levies are due and payable. The mechanism for setting fee and levy amounts is preparation of a cost recovery implementation statement (CRIS) that meets the requirements of the Australian Government Cost Recovery Guidelines.

The *Offshore Petroleum and Greenhouse Gas Storage Legislation Amendment (Greenhouse Gas Storage) Regulations 2020* (the Amendment Regulations) make consequential amendments to the RMA Regulations, the Environment Regulations and the Levies Regulations to fully implement measures in the *Offshore Petroleum and Greenhouse Gas*

Storage Amendment (Miscellaneous Amendments) Act 2019 (the Miscellaneous Amendments Act) and the *Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Amendment Act 2019* (the Levies Amendment Act).

The Amendment Regulations implement measures in the Miscellaneous Amendments Act and the Levies Amendment Act to:

- Transfer regulatory responsibility for offshore greenhouse gas wells and environmental management from the responsible Commonwealth Minister to NOPSEMA
- Future-proof references to regulations made under the OPGGS Act.

The Amendment Regulations also implement measures in the Levies Amendment Act to:

- Revise provisions which impose a well activity levy as a consequence of previous amendments to the RMA Regulations
- Revise provisions which impose a safety investigation levy and well investigation levy as a consequence of previous amendments to the OPGGS Act.

The Levies Amendment Act amends the Levies Act to impose levies in relation to greenhouse gas wells and well activities. The Amendment Regulations therefore amend the Levies Regulations to prescribe levy amounts. The amount for greenhouse gas well-related levies has been set at zero, pending consideration of appropriate levy amounts by NOPSEMA as part of a forthcoming CRIS revision process. It is anticipated that the CRIS revision will be undertaken in 2020, followed by further amendments to the Levies Regulations to prescribe the levy amounts. There is currently only one holder of a greenhouse gas title, and limited greenhouse gas activities underway, with only one greenhouse gas well having been drilled to date.

Sections 1 to 4 and Part 1 of Schedule 1 to the Amendment Regulations commence on the day after the Amendment Regulations are registered.

Part 2 of Schedule 1 to the Amendment Regulations commences at the same time as Part 2 of Schedule 1 to the Levies Amendment Act commences. The amendments in that Part of the Amendment Regulations implement the amendments in Part 2 of Schedule 1 to the Levies Amendment Act that impose well activity levies on submission of five yearly revisions of well operations management plans.

Part 3 of Schedule 1 to the Amendment Regulations commences at the same time as Division 1 of Part 1 of Schedule 1 to the Miscellaneous Amendment Act commences. The amendments in that Part of the Amendment Regulations implement the amendments in Schedule 2 to the Levies Amendment Act that impose levies in relation to greenhouse gas wells. Schedule 2 to the Levies Amendment Act commences at the same time as Division 1 of Part 1 of Schedule 1 to the Miscellaneous Amendments Act commences.

Part 4 of Schedule 1 to the Amendment Regulations commences at the same time as Schedule 3 to the Levies Amendment Act commences. The amendments in that Part implement the amendments in Schedule 3 to the Levies Amendment Act that revise provisions which impose a safety investigation levy and well investigation levy.

Part 5 of Schedule 1 to the Amendment Regulations commences at the same time as Schedule 6 to the Levies Amendment Act commences. The amendments in that Part

implement the amendments in Schedule 6 to the Levies Amendment Act to future-proof references in provisions of the Levies Act to the names of regulations made under the OPGGS Act.

Part 1 of Schedule 2, and Schedule 3, to the Amendment Regulations commence at the same time as Division 1 of Part 1 of Schedule 1 to the Miscellaneous Amendments Act commences. The amendments in that Part and Schedule fully implement the amendments in Division 1 of Part 1 of Schedule 1 to the Miscellaneous Amendments Act to transfer regulatory responsibility for offshore greenhouse gas wells and environmental management to NOPSEMA.

Part 2 of Schedule 2 to the Amendment Regulations commences at the same time as Schedule 18 to the Miscellaneous Amendments Act commences. The amendments in that Part implement the amendments in Schedule 18 to the Miscellaneous Amendments Act to future-proof references in provisions of the OPGGS Act to the names of regulations made under the OPGGS Act.

Details of the Amendment Regulations are set out in Attachment A.

Consultation

NOPSEMA and the National Offshore Petroleum Titles Administrator (the Titles Administrator) were consulted during development of the Amendment Regulations. Broader consultation was not undertaken, as the amendments made by the Amendment Regulations are technical consequential amendments only. NOPSEMA, the Titles Administrator and the Attorney-General's Department were consulted during development of the relevant measures in the Miscellaneous Amendments Act and the Levies Amendment Act.

The offshore petroleum industry were made aware of the consequential amendments to well activity levies that would be put in place as a result of previous amendments to the RMA Regulations, during consultation on the latter amendments.

Regulatory Impact

The Office of Best Practice Regulation (OBPR) has confirmed that a Regulation Impact Statement is not required for the Amendment Regulations. The OBPR references are ID 20130 (transfer of greenhouse gas regulatory functions) and ID 20527 (amendments as a consequence of previous amendments to the RMA Regulations).

Statement of Compatibility with Human Rights

Subsection 9(1) of the *Human Rights (Parliamentary Scrutiny) Act 2011* requires the rule-maker of a legislative instrument to which section 42 (disallowance) of the *Legislation Act 2003* applies to cause a statement of compatibility to be prepared in respect of that legislative instrument. A Statement of Compatibility with Human Rights has been prepared to meet that requirement and is set out at Attachment B.

Details of the *Offshore Petroleum and Greenhouse Gas Storage Legislation Amendment (Greenhouse Gas Storage) Regulations 2020*

Section 1 – Name

This section provides that the title of the Regulations is the *Offshore Petroleum and Greenhouse Gas Storage Legislation Amendment (Greenhouse Gas Storage) Regulations 2020*.

Section 2 – Commencement

This section provides for the commencement date for the provisions of the *Offshore Petroleum and Greenhouse Gas Storage Legislation Amendment (Greenhouse Gas Storage) Regulations 2020* (the Amendment Regulations).

Sections 1 to 4 and Part 1 of Schedule 1 to the Amendment Regulations commence on the day after the Amendment Regulations are registered.

Part 2 of Schedule 1 to the Amendment Regulations commences at the same time as Part 2 of Schedule 1 to the *Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Amendment Act 2019* (the Levies Amendment Act) commences. The amendments in that Part of the Amendment Regulations implement the amendments in Part 2 of Schedule 1 to the Levies Amendment Act that impose well activity levies on submission of five yearly revisions of well operations management plans. Part 2 of Schedule 1 to the Levies Amendment Act commences on 28 April 2020.

Part 3 of Schedule 1 to the Amendment Regulations commences at the same time as Division 1 of Part 1 of Schedule 1 to the *Offshore Petroleum and Greenhouse Gas Storage Amendment (Miscellaneous Amendments) Act 2019* (the Miscellaneous Amendments Act) commences. The amendments in that Part of the Amendment Regulations implement the amendments in Schedule 2 to the Levies Amendment Act that impose levies in relation to greenhouse gas wells. Schedule 2 to the Levies Amendment Act commences at the same time as Division 1 of Part 1 of Schedule 1 to the Miscellaneous Amendments Act commences. Division 1 of Part 1 of Schedule 1 to the Miscellaneous Amendments Act commences on 28 April 2020.

Part 4 of Schedule 1 to the Amendment Regulations commences at the same time as Schedule 3 to the Levies Amendment Act commences. The amendments in that Part implement the amendments in Schedule 3 to the Levies Amendment Act that revise provisions which impose a safety investigation levy and well investigation levy. Schedule 3 to the Levies Amendment Act commences on 28 April 2020.

Part 5 of Schedule 1 to the Amendment Regulations commences at the same time as Schedule 6 to the Levies Amendment Act commences. The amendments in that Part implement the amendments in Schedule 6 to the Levies Amendment Act to future-proof references in provisions of the *Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Act 2003* (the Levies Act) to the names of regulations made under the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (the OPGGS Act). Schedule 6 to

the Levies Amendment Act commences immediately after the commencement of Part 2 of Schedule 1 to the Levies Amendment Act. Part 2 of Schedule 1 to the Levies Amendment Act commences on 28 April 2020.

Part 1 of Schedule 2, and Schedule 3, to the Amendment Regulations commence at the same time as Division 1 of Part 1 of Schedule 1 to the Miscellaneous Amendments Act commences. The amendments in that Part and Schedule fully implement the amendments in Division 1 of Part 1 of Schedule 1 to the Miscellaneous Amendments Act to transfer regulatory responsibility for offshore greenhouse gas wells and environmental management to the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA). Division 1 of Part 1 of Schedule 1 to the Miscellaneous Amendments Act commences on 28 April 2020.

Part 2 of Schedule 2 to the Amendment Regulations commences at the same time as Schedule 18 to the Miscellaneous Amendments Act commences. The amendments in that Part implement the amendments in Schedule 18 to the Miscellaneous Amendments Act to future-proof references in provisions of the OPGGS Act to the names of regulations made under the OPGGS Act. Schedule 18 to the Miscellaneous Amendments Act commences immediately after the commencement of Schedule 15 to the Miscellaneous Amendments Act. Schedule 15 to the Miscellaneous Amendments Act commences immediately after Division 1 of Part 1 of Schedule 1 to the Miscellaneous Amendments Act commences. Division 1 of Part 1 of Schedule 1 to the Miscellaneous Amendments Act commences on 28 April 2020.

Section 3 – Authority

This section provides that the Amendment Regulations are made under the OPGGS Act and the Levies Act.

Section 4 – Schedules

This section is a machinery clause that enables the Schedules to the Amendment Regulations to operate according to their terms.

Schedule 1 – Levies

Part 1 – Amendments commencing day after registration

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

Item 1 – Regulation 3 (definition of *OHS inspector*)

This item repeals the definition of ***OHS inspector***. The *Offshore Petroleum and Greenhouse Gas Storage Amendment (Compliance Measures) Act 2013* amended the OPGGS Act to abolish two categories of inspector (petroleum project inspectors and OHS inspectors), and instead provide for the Chief Executive Officer of NOPSEMA to appoint ‘NOPSEMA inspectors’ to conduct inspections to monitor and investigate compliance with the OPGGS Act and regulations. The amendments commenced on 1 October 2014.

The *Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Regulations 2004* (the Levies Regulations) still contain several references to OHS inspectors. The Amendment

Regulations remove references to OHS inspectors, and replace them with references to NOPSEMA inspectors.

The Amendment Regulations do not amend regulation 3 to insert a definition of ‘NOPSEMA inspector’. This term is defined in the OPGGS Act and the Levies Act. In the Levies Regulations, ‘NOPSEMA inspector’ has the same meaning as it has in those Acts.

Item 2 – Subparagraphs 4(2)(a)(ii) and (b)(ii)

From 1 January 2012, the functions and powers of the previous National Offshore Petroleum Safety Authority (the Safety Authority) were expanded to include regulation of environmental management. The name of the Safety Authority was changed to NOPSEMA.

At the time, amendments to the OPGGS Act and regulations were made to replace references to the Safety Authority with references to NOPSEMA. However, as the result of an oversight, the amendments were not carried through into regulation 4 of the Levies Regulations, which still includes references to the Safety Authority.

This item amends subparagraphs 4(2)(a)(ii) and (b)(ii) to replace references to the Safety Authority with references to NOPSEMA.

Items 3 to 6 – Paragraph 7(3)(a); Subregulation 9(3) (note); Paragraph 14(3)(a); Subregulation 16(3) (note)

These items remove references to OHS inspectors, and replace them with references to NOPSEMA inspectors. See discussion at item 1.

Item 7 – Paragraph 59(2)(a)

Regulation 59 of the Levies Regulations sets out when well activity levies payable by the holders of State/Territory petroleum titles become due and payable. Paragraph 59(2)(a) provides for when well activity levies are payable on submission of an application for acceptance of a well operations management plan under a regulation of a State or Territory that substantially corresponds to regulation 5.06 of the *Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2011* (the RMA Regulations).

Amendments to Part 5 of the RMA Regulations commenced on 1 January 2016. It is likely that there will be a continuing time delay between commencement of the amendments to the RMA Regulations and all of the States/Northern Territory making equivalent amendments to their well-related regulations. Part 1 of Schedule 1 to the Levies Amendment Act therefore amended the Levies Act to provide for well activity levies to be imposed on applications for acceptance of a well operations management plan under regulations of a State or Territory that substantially correspond to either the current or the old Commonwealth RMA Regulations.

This item consequentially amends paragraph 59(2)(a) of the Levies Regulations to provide that well activity levies are payable at the time at which a registered holder of a State/Territory title submits an application to NOPSEMA for acceptance of a well operations management plan under a regulation of a State or Territory that substantially corresponds to

regulation 5.06 of the current RMA Regulations, or to regulation 5.06 of the old RMA Regulations.

Regulation 57 of the Levies Regulations defines ***old Resource Management and Administration Regulations*** as the RMA Regulations as in force immediately before the commencement of the *Offshore Petroleum and Greenhouse Gas Storage Legislation Amendment (Well Operations) Regulation 2015*.

Part 2 – Amendments relating to Part 2 of Schedule 1 to Levies Amendment Act

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

Item 8 – Regulation 54 (definition of *old Resource Management and Administration Regulations*)

This item repeals the definition of ***old Resource Management and Administration Regulations***.

Amendments to Part 5 of the RMA Regulations commenced on 1 January 2016. The amendments removed the requirement to submit an application to NOPSEMA for approval to commence an activity relating to a well prior to undertaking the activity. A two year transition period applied during which certain titleholders were still required to submit applications for well activity approvals. The transition period ended on 1 January 2018. Now that the transition period has ended, Part 1 of Schedule 1 to the Levies Amendment Act has amended the Levies Act to repeal the levy previously imposed on such applications.

A definition of ***old Resource Management and Administration Regulations*** was inserted into regulation 54 to provide for well activity levies imposed on applications for approval to commence a well activity during the transition period. The definition is no longer required following the end of the transition period.

Items 9 and 10 – Regulation 55; Regulation 55 (table, heading to column headed “Application”)

Amendments to Part 5 of the RMA Regulations commenced on 1 January 2016. Prior to the amendment of those Regulations, a well operations management plan ceased to be in force at the end of the five-year period commencing on the date on which the plan was accepted. This meant that, in order to continue to have a plan in force, it was necessary for the titleholder to apply for acceptance of a new plan every five years.

The amendments to the RMA Regulations established a different regime, under which a single plan covers all stages of the life of a well. Under the amended RMA Regulations, submission and acceptance of a five-yearly revision results in the continuation in force of the existing plan.

Part 2 of Schedule 1 to the Levies Amendment Act amends section 10C of the Levies Act to impose a well activity levy if a person submits to NOPSEMA a proposed five-yearly revision of a plan.

These items make consequential amendments to regulation 55 of the Levies Regulations to include reference to a “submission” mentioned in subsection 10C(1) of the Levies Act.

Item 11 – Regulation 55 (table item 2)

This item provides for the amount of a well activity levy imposed on submission of a proposed five-yearly revision of a well operations management plan. See discussion at items 9 and 10.

This item also repeals the provision for the amount of a well activity levy imposed on an application for approval to commence an activity relating to a well. See discussion at item 8.

Item 12 – Regulation 55 (note)

This item repeals the note to regulation 55. The note is no longer applicable following the end of the transition period, during which certain titleholders were still required to submit applications for approval to commence activities relating to wells, on 1 January 2018. See discussion at item 8.

Items 13 to 15 – Subregulation 56(2); Paragraph 56(2)(a); Paragraph 56(2)(b)

These items provide for when a well activity levy imposed on submission of a proposed five-yearly revision of a well operations management plan is payable. See discussion at items 9 and 10.

Item 15 also repeals the provision for when a well activity levy imposed on an application for approval to commence an activity relating to a well is payable. See discussion at item 8.

Items 16 to 18 – Regulation 58; Regulation 58 (table, heading to column headed “Application”); Regulation 58 (at the end of the table)

These items provide for the amount of a well activity levy imposed on submission of a proposed five-yearly revision of a well operations management plan under a regulation of a State or Territory that substantially corresponds to regulation 5.13 of the RMA Regulations. See discussion at items 9 and 10.

Item 19 – After paragraph 59(2)(a)

This item provides for when a well activity levy imposed on submission of a proposed five-yearly revision of a well operations management plan under a regulation of a State or Territory that substantially corresponds to regulation 5.13 of the RMA Regulations is payable. See discussion at items 9 and 10.

Part 3 – Amendments commencing when Division 1 of Part 1 of Schedule 1 to Miscellaneous Amendments Act

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

Item 20 – Regulation 36

This item inserts a new definition of ***eligible title*** for the purposes of Part 6 of the Levies Regulations (well investigation levy – Commonwealth waters). The definition refers to the meaning of the term given by section 9 of the Levies Act.

Well investigation levies were previously imposed by section 9 of the Levies Act only in relation to petroleum titles. The Levies Act was amended by Schedule 2 to the Levies Amendment Act to impose well investigation levies in relation to both petroleum titles and greenhouse gas titles. The term ***eligible title*** has been inserted into section 9 of the Levies Act to mean a petroleum title or a greenhouse gas title.

The amendments reflect that regulatory responsibility for greenhouse gas wells has been transferred from the responsible Commonwealth Minister to NOPSEMA by the amendments in the Miscellaneous Amendments Bill and the Levies Amendment Bill. NOPSEMA was already the regulator of petroleum wells. NOPSEMA’s operations are fully cost-recovered by way of fees and levies imposed on the offshore petroleum and greenhouse gas storage industries.

Item 21 – Regulation 36 (definition of ***petroleum title***)

This item repeals the definition of ***petroleum title***. The term is no longer used in Part 6 of the Levies Regulations as the Levies Act has been amended to impose well investigation levies in relation to “eligible titles”. See discussion at item 20.

Item 22 – Regulation 36 (definition of ***registered holder***)

This item amends the definition of ***registered holder*** to reflect that well investigation levies are imposed in relation to both petroleum titles and greenhouse gas titles (“eligible titles”) – see discussion at item 20.

Item 23 – Before regulation 37

This item inserts Subdivision A into Division 2 of Part 6 of the Levies Regulations, which includes a new regulation 36A and existing regulations 37 to 39. The amendment ensures that regulations 37 to 39 continue to apply only in relation to well investigation levies imposed by section 9 of the Levies Act on a compliance investigation concerning a contravention or possible contravention of subclause 13A(1) or (2) of Schedule 3 to the OPGGS Act (duties of petroleum titleholders in relation to wells). Separate provision is made for well investigation levies imposed on a compliance investigation concerning a contravention or possible contravention of subclause 13B(1) or (2) of Schedule 3 (duties of greenhouse gas titleholders in relation to wells) – see item 30.

Items 24 to 29 – Subregulation 37(1); Subregulation 38(1) (note); Paragraph 38(2)(b); Subregulation 38(3); Subregulation 38(3); Subregulation 39(1)

These items would amend provisions in Part 6 of the Levies Regulations (well investigation levy – Commonwealth waters) to reflect that well investigation levies are imposed in relation to both petroleum titles and greenhouse gas titles – see discussion at item 20. References to a “petroleum title” are replaced with references to an “eligible title”.

Item 30 – At the end of Division 2 of Part 6

This item inserts a new Subdivision B into Division 2 of Part 6 of the Levies Regulations to provide for the amount of well investigation levies imposed on a compliance investigation concerning a contravention or possible contravention of the duty of a greenhouse gas titleholder in relation to wells in subclause 13B(1) or (2) of Schedule 3 to the OPGGS Act. The amount is set at zero pending consideration of appropriate levy amounts by NOPSEMA as part of a forthcoming cost recovery implementation statement (CRIS) revision process. It is anticipated that the CRIS revision will be undertaken in 2020, followed by further amendments to the Levies Regulations to prescribe the levy amounts.

Item 31 – Before regulation 40

This item inserts a new section 39B to ensure that regulations 40 and 41 of the Levies Regulations continue to apply only in relation to well investigation levies imposed by section 9 of the Levies Act on a compliance investigation concerning a contravention or possible contravention of subclause 13A(1) or (2) of Schedule 3 to the OPGGS Act (duties of petroleum titleholders in relation to wells).

There is no specification of when well investigation levies imposed on a compliance investigation concerning a contravention or possible contravention of subclause 13B(1) or (2) of Schedule 3 (duties of greenhouse gas titleholders in relation to wells) are due and payable, or requirement for NOPSEMA to keep records in relation to such an investigation, as the amount of well investigation levies imposed on such an investigation is zero – see item 30.

Items 32 and 33 – Subregulation 40(3); Paragraph 41(4)(a)

These items amend subregulation 40(3) and paragraph 41(4)(a) of the Levies Regulations to reflect that well investigation levies are imposed in relation to both petroleum titles and greenhouse gas titles – see discussion at item 20. References to a “petroleum title” are replaced with references to an “eligible title”.

Item 34 – Regulation 42 (definition of *registered holder*)

This item replaces the reference to a “State/Territory petroleum title” with a reference to a “State/Territory title” in the definition of *registered holder* for the purposes of Part 7 of the Levies Regulations (well investigation levy – designated coastal waters). See discussion at item 36.

Item 35 – Regulation 42 (definition of *State/Territory petroleum title*)

This item repeals the definition of *State/Territory petroleum title*. The term is no longer used in Part 7 of the Levies Regulations as the Levies Act has been amended to impose well investigation levies in relation to “State/Territory titles” rather than “State/Territory petroleum titles”. See discussion at item 36.

Item 36 – Regulation 42

This item inserts a new definition of ***State/Territory title*** for the purposes of Part 7 of the Levies Regulations (well investigation levy – designated coastal waters). The definition refers to the meaning of the term given by section 10 of the Levies Act.

Well investigation levies were previously imposed by section 10 of the Levies Act only in relation to State/Territory petroleum titles. The Levies Act has been amended by Schedule 2 to the Levies Amendment Act to impose well investigation levies in relation to both State/Territory petroleum titles and State/Territory greenhouse gas titles. The term ***State/Territory title*** has been inserted into section 10 of the Levies Act to mean a State/Territory petroleum title or a State/Territory greenhouse gas title.

The amendments reflect that NOPSEMA has regulatory responsibility for greenhouse gas wells in State or Territory coastal waters if functions are conferred on NOPSEMA under State or Territory offshore greenhouse gas storage legislation. NOPSEMA’s operations are fully cost-recovered by way of fees and levies imposed on the offshore petroleum and greenhouse gas storage industries.

Item 37 – Before regulation 43

This item inserts a new Subdivision A into Division 2 of Part 7 of the Levies Regulations, which includes a new regulation 42A and existing regulations 43 to 45. The amendment ensures that regulations 43 to 45 continue to apply only in relation to well investigation levies imposed by section 10 of the Levies Act on an inspection concerning a contravention or possible contravention of a provision of a State or Territory PSLA that substantially corresponds to subclause 13A(1) or (2) of Schedule 3 to the OPGGS Act (duties of petroleum titleholders in relation to wells). Separate provision is made for well investigation levies imposed on an inspection concerning a contravention or possible contravention of a provision of a State or Territory PSLA that substantially corresponds to subclause 13B(1) or (2) of Schedule 3 (duties of greenhouse gas titleholders in relation to wells) – see item 44.

Items 38 to 43 – Subregulation 43(1); Subregulation 44(1) (note); Paragraph 44(2)(b); Subregulation 44(3); Subregulation 44(3); Subregulation 45(1)

These items amend provisions in Part 7 of the Levies Regulations (well investigation levy – designated coastal waters) to reflect that well investigation levies are imposed in relation to both State/Territory petroleum titles and State/Territory greenhouse gas titles – see discussion at item 36. References to a “State/Territory petroleum title” are replaced with references to a “State/Territory title”.

Item 44 – At the end of Division 2 of Part 7

This item inserts a new Subdivision B into Division 2 of Part 7 of the Levies Regulations to provide for the amount of well investigation levies imposed on an inspection concerning a contravention or possible contravention of the duty of a greenhouse gas titleholder in relation to wells in a provision of a State or Territory PSLA that substantially corresponds to subclause 13B(1) or (2) of Schedule 3 to the OPGGS Act. The amount is set at zero pending consideration of appropriate levy amounts by NOPSEMA as part of a forthcoming CRIS revision process. It is anticipated that the CRIS revision will be undertaken in 2020, followed by further amendments to the Levies Regulations to prescribe the levy amounts.

Item 45 – Before regulation 46

This item inserts new section 45B to ensure that regulations 46 and 47 of the Levies Regulations continue to apply only in relation to well investigation levies imposed by section 10 of the Levies Act on an inspection concerning a contravention or possible contravention of a provision of a State PSLA or Territory PSLA that substantially corresponds to subclause 13A(1) or (2) of Schedule 3 to the OPGGS Act (duties of petroleum titleholders in relation to wells).

There is no specification of when well investigation levies imposed on an inspection concerning a contravention or possible contravention of a provision of a State or Territory PSLA that substantially corresponds to subclause 13B(1) or (2) of Schedule 3 (duties of greenhouse gas titleholders in relation to wells) are due and payable, or requirement for NOPSEMA to keep records in relation to such an investigation, as the amount of well investigation levies imposed on such an investigation is zero – see item 44.

Items 46 and 47 – Subregulation 46(3); Paragraph 47(4)(a)

These items amend subregulation 46(3) and paragraph 47(4)(a) of the Levies Regulations to reflect that well investigation levies are imposed in relation to both State/Territory petroleum titles and State/Territory greenhouse gas titles – see discussion at item 36. References to a “State/Territory petroleum title” are replaced with references to a “State/Territory title”.

Item 48 – Part 8 (heading)

This item amends the heading of Part 8 of the Levies Regulations to reflect that annual well levies are imposed in relation to both petroleum titles and greenhouse gas titles.

Item 49 – Before regulation 48

This item inserts a new Division heading to reflect the creation of additional Divisions in Part 8 of the Levies Regulations.

Item 50 – Regulation 48

This item inserts a new definition of *eligible title* for the purposes of Part 8 of the Levies Regulations. The definition refers to the meaning of the term given by section 10A of the Levies Act.

Annual well levies were previously imposed by section 10A of the Levies Act only in relation to petroleum titles. The Levies Act has been amended by Schedule 2 to the Levies Amendment Act to impose annual well levies in relation to both petroleum titles and greenhouse gas titles. The term *eligible title* has been inserted into section 10A of the Levies Act to mean a petroleum title or a greenhouse gas title.

The amendments reflect that regulatory responsibility for greenhouse gas wells has been transferred from the responsible Commonwealth Minister to NOPSEMA by the amendments in the Miscellaneous Amendments Bill and the Levies Amendment Bill. NOPSEMA was already the regulator of petroleum wells. NOPSEMA’s operations are fully cost-recovered by

way of fees and levies imposed on the offshore petroleum and greenhouse gas storage industries.

Item 51 – Before regulation 49

This item inserts a new Subdivision A of Division 2 into Part 8 of the Levies Regulations, which include a new regulation 48A and existing regulations 49 and 50. The amendment ensures that regulations 49 and 50 continue to apply only in relation to annual well levies imposed by section 10A of the Levies Act on an eligible well in relation to an eligible title that is a petroleum title. Separate provision is made for annual well levies imposed on an eligible well in relation to an eligible title that is a greenhouse gas title – see item 52.

Item 52 – At the end of Part 8

This item inserts a new Subdivision B of Division 2 into Part 8 of the Levies Regulations to provide that the amount of annual well levy imposed per eligible well in relation to a greenhouse gas title for a year is zero. The amount is set at zero pending consideration of appropriate levy amounts by NOPSEMA as part of a forthcoming CRIS revision process. It is anticipated that the CRIS revision will be undertaken in 2020, followed by further amendments to the Levies Regulations to prescribe the levy amounts.

Item 53 – Part 9 (heading)

This item amends the heading of Part 9 of the Levies Regulations to reflect that annual well levies are imposed in relation to both State/Territory petroleum titles and State/Territory greenhouse gas titles.

Item 54 – Before regulation 51

This item inserts a new Division heading to reflect the creation of additional Divisions in Part 9 of the Levies Regulations.

Item 55 – Regulation 51

This item inserts a new definition of ***State/Territory title*** for the purposes of Part 9 of the Levies Regulations. The definition refers to the meaning of the term given by section 10B of the Levies Act.

Annual well levies were previously imposed by section 10B of the Levies Act only in relation to State/Territory petroleum titles. The Levies Act has been amended by Schedule 2 to the Levies Amendment Act to impose annual well levies in relation to both State/Territory petroleum titles and State/Territory greenhouse gas titles. The term ***State/Territory title*** has been inserted into section 10B of the Levies Act to mean a State/Territory petroleum title or a State/Territory greenhouse gas title.

The amendments reflect that regulatory responsibility for greenhouse gas wells has been transferred from the responsible Commonwealth Minister to NOPSEMA by the amendments in the Miscellaneous Amendments Bill and the Levies Amendment Bill. NOPSEMA's operations are fully cost-recovered by way of fees and levies imposed on the offshore petroleum and greenhouse gas storage industries.

Item 56 – Before regulation 52

This item inserts a new Subdivision A of Division 2 into Part 9 of the Levies Regulations, which includes a new regulation 51A and existing regulations 52 and 53. The amendment ensures that regulations 52 and 53 continue to apply only in relation to annual well levies imposed by section 10B of the Levies Act on an eligible well in relation to a State/Territory title that is a State/Territory petroleum title. Separate provision is made for annual well levies imposed on an eligible well in relation to a State/Territory title that is a State/Territory greenhouse gas title – see item 58.

Item 57 – Regulation 52

This item amends regulation 52 to reflect that annual well levies are imposed in relation to both State/Territory petroleum titles and State/Territory greenhouse gas titles – see discussion at item 184. The reference to a “State/Territory petroleum title” is replaced with a reference to a “State/Territory title”.

Item 58 – At the end of Part 9

This item inserts a new Subdivision B of Division 2 into Part 9 of the Levies Regulations to provide that the amount of annual well levy imposed per eligible well in relation to a State/Territory greenhouse gas title for a year is zero. The amount is set at zero pending consideration of appropriate levy amounts by NOPSEMA as part of a forthcoming CRIS revision process. It is anticipated that the CRIS revision will be undertaken in 2020, followed by further amendments to the Levies Regulations to prescribe the levy amounts.

Item 59 – Part 10 (heading)

This item amends the heading of Part 10 of the Levies Regulations to reflect that well activity levies are imposed in relation to both petroleum titles and greenhouse gas titles.

Item 60 – Before regulation 54

This item inserts a new Division heading to reflect the creation of additional Divisions in Part 10 of the Levies Regulations.

Item 61 – Regulation 54

This item inserts a new definition of *eligible title* for the purposes of Part 10 of the Levies Regulations. The definition refers to the meaning of the term given by section 10C of the Levies Act.

Well activity levies were previously imposed by section 10C of the Levies Act only in relation to petroleum titles. The Levies Act has been amended by Schedule 2 to the Levies Amendment Act to impose well activity levies in relation to both petroleum titles and greenhouse gas titles. The term *eligible title* has been inserted into section 10C of the Levies Act to mean a petroleum title or a greenhouse gas title.

The amendments reflect that regulatory responsibility for greenhouse gas wells has been transferred from the responsible Commonwealth Minister to NOPSEMA by the amendments

in the Miscellaneous Amendments Bill and the Levies Amendment Bill. NOPSEMA was already the regulator of petroleum wells. NOPSEMA's operations are fully cost-recovered by way of fees and levies imposed on the offshore petroleum and greenhouse gas storage industries.

Item 62 – Regulation 54 (definition of *registered holder*)

This item replaces the reference to a “petroleum title” with a reference to an “eligible title” in the definition of *registered holder* for the purposes of Part 10 of the Levies Regulations. See discussion at item 61.

Item 63 – Before regulation 55

This item inserts Subdivision A of Division 2 into Part 10 of the Levies Regulations, which includes a new regulation 54A and existing regulations 55 and 56. The amendment ensures that regulations 55 and 56 continue to apply only in relation to well activity levies payable under section 10C of the Levies Act by the registered holder of an eligible title that is a petroleum title. Separate provision is made for well activity levies imposed in relation to the registered holder of an eligible title that is a greenhouse gas title – see item 65.

Item 64 – Subregulation 56(2)

This item replaces the reference to a “petroleum title” with a reference to an “eligible title” in subregulation 56(2). See discussion at item 61.

Item 65– At the end of Part 10

This item inserts a new Subdivision B of Division 2 into Part 10 of the Levies Regulations to provide that the amount of well activity levy imposed in relation to the registered holder of a greenhouse gas title is zero. The amount is set at zero pending consideration of appropriate levy amounts by NOPSEMA as part of a forthcoming CRIS revision process. It is anticipated that the CRIS revision will be undertaken in 2020, followed by further amendments to the Levies Regulations to prescribe the levy amounts.

Item 66 – Part 11 (heading)

This item amends the heading of Part 11 of the Levies Regulations to reflect that well activity levies are imposed in relation to both State/Territory petroleum titles and State/Territory greenhouse gas titles.

Item 67 – Before regulation 57

This item inserts a new Division heading to reflect the creation of additional Divisions in Part 11 of the Levies Regulations.

Item 68 – Regulation 57 (definition of *registered holder*)

This item replaces the reference to a “State/Territory petroleum title” with a reference to a “State/Territory title” in the definition of *registered holder* for the purposes of Part 11 of the Levies Regulations. See discussion at item 69.

Item 69 – Regulation 57

This item inserts a new definition of ***State/Territory title*** for the purposes of Part 11 of the Levies Regulations. The definition refers to the meaning of the term given by section 10D of the Levies Act.

Well activity levies were previously imposed by section 10D of the Levies Act only in relation to State/Territory petroleum titles. The Levies Act has been amended by Schedule 2 to the Levies Amendment Act to impose well activity levies in relation to both State/Territory petroleum titles and State/Territory greenhouse gas titles. The term ***State/Territory title*** has been inserted into section 10D of the Levies Act to mean a State/Territory petroleum title or a State/Territory greenhouse gas title.

The amendments reflect that regulatory responsibility for greenhouse gas wells has been transferred from the responsible Commonwealth Minister to NOPSEMA by the amendments in the Miscellaneous Amendments Bill and the Levies Amendment Bill. NOPSEMA's operations are fully cost-recovered by way of fees and levies imposed on the offshore petroleum and greenhouse gas storage industries.

Item 70 – Before regulation 58

This item inserts Subdivision A of Division 2 into Part 11 of the Levies Regulations, which includes a new regulation 57A and existing regulations 58 and 59. The amendment ensures that regulations 58 and 59 continue to apply only in relation to well activity levies payable under section 10D of the Levies Act by the registered holder of a State/Territory title that is a State/Territory petroleum title. Separate provision is made for well activity levies imposed in relation to the registered holder of a State/Territory title that is a State/Territory greenhouse gas title – see item 72.

Item 71 – Subregulation 59(2)

This item replaces the reference to a “State/Territory petroleum title” with a reference to a “State/Territory title” in subregulation 59(2). See discussion at item 69.

Item 72 – At the end of Part 11

This item inserts a new Subdivision B of Division 2 into Part 11 of the Levies Regulations to provide that the amount of well activity levy imposed in relation to the registered holder of a State/Territory greenhouse gas title is zero. The amount is set at zero pending consideration of appropriate levy amounts by NOPSEMA as part of a forthcoming CRIS revision process. It is anticipated that the CRIS revision will be undertaken in 2020, followed by further amendments to the Levies Regulations to prescribe the levy amounts.

Item 73 – Paragraph 62(3)(c)

This item amends paragraph 62(3)(c) to reflect that levies are imposed in relation to both Commonwealth petroleum titles and Commonwealth greenhouse gas titles (“eligible titles”), and in relation to both State/Territory petroleum titles and State/Territory greenhouse gas titles (“State/Territory titles”).

Item 74 – Subregulation 63(1)

This item amends subregulation 63(1) to include a reference to the offshore greenhouse gas storage industry. NOPSEMA is required to meet annually with representatives of that industry, as well as with representatives of the offshore petroleum industry, given that levies are also imposed in relation to greenhouse gas titles.

Part 4 – Amendments commencing when Schedule 3 to Levies Amendment Act

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

Items 75 to 112 – Regulation 6; Regulation 6 (definition of *inspection*); Subregulation 7(1); Subregulation 7(1); Subregulation 7(2); Subregulations 7(2) and (3); Subregulation 7(4); Subregulation 7(5); Subregulation 7(5); Subregulation 8(2); Subregulation 8(2); Paragraph 8(9)(b); Paragraphs 9(1)(a) and (b); Subregulation 9(2); Subregulation 9(2) (note); Subregulation 9(3); Subregulation 9(3); Subregulations 10(1) and 11(2); Subregulation 11(2); Subregulation 11(3); Paragraphs 11(3)(a) and (b) and (4)(a) and (b); Subregulation 11(4) (note); Paragraph 12(1)(a); Regulation 36; Regulation 36 (definition of *inspection*); Subregulations 37(1) and (2); Subparagraphs 37(9)(b)(i) and (ii); Subregulation 38(1); Subregulation 38(1); Subregulation 38(1) (table item 1); Subregulation 38(1) (note); Subregulation 38(1) (note); Subregulation 38(2) (heading); Subregulation 38(2); Paragraphs 38(2)(a) and (b); Subregulation 39(1); Paragraph 40(2)(a); Subregulation 41(1)

The Levies Act previously imposed safety investigation levies in certain circumstances relating to an inspection in relation to a notifiable accident or occurrence. The Levies Act also previously imposed well investigation levies in certain circumstances relating to an inspection concerning a contravention or possible contravention of a titleholder’s duties in relation to wells in Schedule 3 to the OPGGS Act. At the time the levies were inserted into the Levies Act, inspections (including investigations to search for and collect evidential material in relation to possible contraventions) were conducted under Schedule 3 to the OPGGS Act. Since that time, amendments to the OPGGS Act have been made to provide for investigations into possible contraventions of the OPGGS Act to instead be conducted under Part 3 of the *Regulatory Powers (Standard Provisions) Act 2014* (Regulatory Powers Act), as it is applied by the OPGGS Act.

As a consequence of the amendments to the OPGGS Act, the Levies Amendment Act amended the provisions of the Levies Act that impose safety investigation levies and well investigation levies with respect to operations in Commonwealth waters to replace references to an “inspection” with references to a “compliance investigation”, and insert a new definition of “compliance investigation”.

The amendments to safety investigation levies and well investigation levies imposed in Commonwealth waters are not replicated for the levies imposed in respect of operations in State or Territory designated coastal waters. This is because State/Territory jurisdictions have not applied the Regulatory Powers Act.

These items amend provisions of the Levies Regulations that relate to safety investigation levies (regulations 6 to 12) and well investigation levies (regulations 36 to 41) with respect to operations in Commonwealth waters, as a consequence of the amendments to the Levies Act.

The amendments replace references to an “inspection” with references to a “compliance investigation”. Items 76 and 99 repeal the definition of “inspection”, and items 75 and 98 insert a new definition of “compliance investigation”, which refers to the meaning of that term in the Levies Act.

Part 5 – Amendments commencing when Schedule 6 to Levies Amendment Act

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

Item 113 – After Part 12

This item inserts new Part 12A to prescribe regulations or provisions of regulations made under the OPGGS Act for particular provisions of the Levies Act.

The Levies Act previously contained specific references to the titles of sets of regulations made under the OPGGS Act. When those regulations sunset and are remade with a new title, there was a risk that the references would become ineffective. Additionally, provisions in the regulations that are integral to the meaning and application of defined terms and requirements in the Levies Act may be renumbered in remade regulations, even if their content remains comparable.

Schedule 6 to the Levies Amendment Bill amended the Levies Act to remove the references to specific titles of regulations, and instead enable references to the titles of regulations, or reference to provisions of regulations, to be prescribed by regulations under the Levies Act.

New Part 12A fully implements the amendments to the Levies Act by prescribing the relevant regulations, or provisions of regulations, for provisions of the Levies Act.

Schedule 2 – Resource management and administration

Part 1 – Amendments commencing first

Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2011

Item 1 – Paragraph 1.06(3)(l)

This item makes a technical correction to paragraph 1.06(3)(l). Paragraph 1.06(3)(l) previously provided that information contained in an application for a greenhouse gas injection licence under section 349 or 361 of the OPGGS Act is “excluded information”.

Section 349 (which sets out the criteria for refusal to renew a greenhouse gas holding lease) is not relevant in this context. However, section 369 (application for a greenhouse gas injection licence by the holder of a petroleum production licence) should have been included, so that information included in an application under section 369 will be excluded information.

This item amends paragraph 1.06(3)(l) to remove the reference to section 349 and instead include a reference to section 369.

Item 2 – Regulation 5.02 (definition of *Regulator*)

This item amends the definition of *Regulator* for the purposes of Part 5 of the RMA Regulations (well operations management plans and well activities) to provide that NOPSEMA is the regulator with respect to wells drilled under both petroleum and greenhouse gas titles. Previously, the responsible Commonwealth Minister was the regulator for greenhouse gas wells.

The Miscellaneous Amendments Act amended the OPGGS Act to transfer regulatory oversight for greenhouse gas wells and environmental management from the responsible Commonwealth Minister to NOPSEMA. NOPSEMA has developed substantial expertise in the regulation of offshore environmental management and well operations through its responsibility for the regulation of offshore petroleum activities. The transfer of regulatory oversight ensures an experienced and independent regulator for offshore greenhouse gas storage activities.

The amendments to the RMA Regulations in the Amendment Regulations complete the implementation of the transfer of regulatory oversight.

Items 3 and 4 – Subregulation 5.04(2) (note 2); Subregulation 5.05(2) (note 2)

Note 2 at the end of regulation 5.04 and Note 2 at the end of regulation 5.05 state that NOPSEMA and the responsible Commonwealth Minister have powers to give directions that must be complied with despite anything in the RMA Regulations. The Notes also state that NOPSEMA and the Minister have powers to give remedial directions, which may relate to the plugging or closing off of wells.

The Notes listed sections 574A and 580 of the OPGGS Act as provisions under which a direction may be given and must be complied with despite anything in the RMA Regulations. However, section 574A has been amended by Schedule 3 to the Miscellaneous Amendments Act, and section 580 has been amended by Division 1 of Part 1 of Schedule 1 to the Miscellaneous Amendments Act, so that a direction given under those sections has effect subject to Part 5 of the RMA Regulations. This item amends the Notes to remove the reference to sections 574A and 580.

The Notes list section 592 of the OPGGS Act as a provision under which a remedial direction may be given which may relate to the plugging or closing off of wells. Division 1 of Part 1 of Schedule 1 to the Miscellaneous Amendments Act amended the OPGGS Act to give NOPSEMA the power to give a direction to a greenhouse gas titleholder that is equivalent to a direction under section 592. This power is included in new section 591B. This item therefore amends the Notes to include a reference to a remedial direction under section 591B.

Item 5 – Paragraph 5.10(3)(b)

Paragraph 5.10(3)(b) provides that a titleholder must submit a proposed revision of a well operations management plan if NOPSEMA gives the titleholder a direction under section 574, 576B or 586 of the OPGGS Act which is inconsistent with the plan.

Division 1 of Part 1 of Schedule 1 to the Miscellaneous Amendments Act amended the OPGGS Act to give NOPSEMA the power to give a remedial direction to a greenhouse gas titleholder (new section 591B). It also amended the OPGGS Act to give NOPSEMA a general power to give a direction to a greenhouse gas titleholder (new section 579A), which is equivalent to the general power for NOPSEMA to give a direction to a petroleum titleholder in section 574.

This item amends paragraph 5.10(3)(b) to include a reference to a direction under section 579A and 591B. A titleholder is therefore required to submit a proposed revision of a well operations management plan if NOPSEMA gives the titleholder a direction under one of those sections that is inconsistent with the plan.

Item 6 – Paragraph 5.10(3)(c)

Paragraph 5.10(3)(c) provided that a titleholder must submit a proposed revision of a well operations management plan if the responsible Commonwealth Minister gives the titleholder a direction under section 574A, 580, 586A or 592 of the OPGGS Act which is inconsistent with the plan. This provision was inserted as, prior to the commencement of amendments in the Miscellaneous Amendments Act, a direction given by the Minister had effect and was required to be complied with despite anything in the RMA Regulations.

Section 574A was amended by Schedule 3 to the Miscellaneous Amendments Act, and section 580 was amended by Division 1 of Part 1 of Schedule 1 to the Miscellaneous Amendments Act, so that a direction given under those sections has effect subject to Part 5 of the RMA Regulations. If a direction given by the Minister is inconsistent with the well operations management plan, the requirements of the plan will prevail over the direction.

This item therefore amends paragraph 5.10(3)(c) to remove the reference to a direction under sections 574A and 580.

Item 7 – Paragraph 5.18(a)

Paragraph 5.18(a) provided that the Regulator may withdraw its acceptance of a titleholder's well operations management plan if the titleholder has not complied with a direction given under section 574, 574A, 576B, 576C, 580, 586, 586A or 592 of the OPGGS Act.

Division 1 of Part 1 of Schedule 1 to the Miscellaneous Amendments Act amended the OPGGS Act to give NOPSEMA the power to give a remedial direction to a greenhouse gas titleholder (new section 591B). It also amended the OPGGS Act to give NOPSEMA a general power to give a direction to a greenhouse gas titleholder (new section 579A), which is equivalent to the general power for NOPSEMA to give a direction to a petroleum titleholder in section 574.

This item amends paragraph 5.18(a) to include a reference to a direction under section 579A and 591B. The Regulator has the ability to withdraw its acceptance of a well operations management plan if the titleholder has not complied with a direction under one of those sections.

Section 574A of the OPGGS Act has been amended by Schedule 3 to the Miscellaneous Amendments Act, and section 580 has been amended by Division 1 of Part 1 of Schedule 1 to the Miscellaneous Amendments Act, so that a direction given under those sections has effect subject to Part 5 of the RMA Regulations. If a direction given by the Minister is inconsistent with the well operations management plan, the requirements of the plan prevail over the direction. This item therefore amends paragraph 5.18(a) to remove the reference to a direction under sections 574A and 580.

Section 576C of the OPGGS Act does not include a power to give a direction. Rather, it provides for matters related to a direction given under section 576B. This item also removes the reference to section 576C in paragraph 5.18(a).

Item 8 – Division 9 of Part 5 (heading)

This item amends the heading of Division 9 of Part 5 to reflect that NOPSEMA is the Regulator for both petroleum and greenhouse gas wells. See discussion at item 2.

Item 9 – Regulation 5.27

This item repeals regulation 5.27. Division 9 applies to both petroleum and greenhouse gas titleholders, as NOPSEMA is the Regulator for both petroleum and greenhouse gas wells. See discussion at item 2.

Item 10 – Regulation 5.29

Under regulation 5.29, if the responsible Commonwealth Minister gives a direction to a titleholder under section 574A (general power to give a direction to a petroleum titleholder) or section 586A (remedial directions to current petroleum titleholders) of the OPGGS Act, the Minister must give a copy of the direction to NOPSEMA as soon as practicable. Given that NOPSEMA will also be the Regulator for greenhouse gas wells (see discussion at item 2), this item amends regulation 5.29 to also apply the requirement in that regulation if the Minister gives a direction under section 580 (general power to give a direction to a greenhouse gas titleholder) or section 592 (remedial directions to current greenhouse gas titleholders).

Item 11 – Subregulation 11A.01(1) (table item 4)

Item 4 of the table in subregulation 11A.01(1) sets out requirements for giving documents that are required or permitted to be given to a titleholder under the OPGGS Act or a legislative instrument under the OPGGS Act. The item previously referred to information (e.g. address, fax number, email address) given in accordance with section 286A of the OPGGS Act. Section 286A applies only to petroleum titleholders.

Division 1 of Part 1 of Schedule 1 to the Miscellaneous Amendments Act inserted a new section 452A of the OPGGS Act, which mirrors section 286A but applies in relation to greenhouse gas titleholders. This item amends table item 4 of subregulation 11A.01(1) to include references to section 452A.

Items 12 and 13 – Subregulation 11A.05(2); Paragraph 11A.05(5)(b)

Regulation 11A.05 applies when there are two or more registered holders of a greenhouse gas title. The regulation previously provided that the registered holders may, by joint written notice given to the responsible Commonwealth Minister, nominate one of them as being the person to whom documents may be given, if the documents are required or permitted to be given under the OPGGS Act or any legislative instrument made under the OPGGS Act.

Given that NOPSEMA now has regulatory responsibility for greenhouse gas wells and environmental management as a result of the amendments in Division 1 of Part 1 of Schedule 1 to the Miscellaneous Amendments Act, and will therefore be giving documents to greenhouse gas titleholders, a nomination should also be given to NOPSEMA.

Regulation 11A.04, which is equivalent to regulation 11A.05 but applies to petroleum titles, also provides for a nomination to be given to the Titles Administrator, rather than the Minister. This is suitable to the Titles Administrator's functions as the administrator of offshore petroleum and greenhouse gas titles, and as the conduit for information given to or by the Minister.

Item 275 amends subregulation 11A.05(2) to provide for a joint written notice to be given to the Titles Administrator and NOPSEMA, rather than to the Minister. Item 277 amends paragraph 11A.05(5)(b) to provide for a written notice revoking a nomination to be given to the Titles Administrator and NOPSEMA, rather than to the Minister.

Item 14 – Paragraph 12.05(1)(b)

Regulation 12.05 required a pipeline licensee to give notice of a reportable incident in relation to a pipeline to the Titles Administrator, a NOPSEMA inspector or a greenhouse gas project inspector.

Division 1 of Part 1 of Schedule 1 to the Miscellaneous Amendments Act amended the OPGGS Act to abolish greenhouse gas project inspectors. Greenhouse gas-related inspectorate functions and powers are now exercised by NOPSEMA inspectors.

This item amends regulation 12.05 to remove the reference to a greenhouse gas project inspector.

Part 2 – Amendments commencing later

Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2011

Item 15 – After Part 11A

This item inserts new Part 11B to prescribe regulations or provisions of regulations made under the OPGGS Act for particular provisions of the OPGGS Act.

The OPGGS Act previously contained specific references to the titles of sets of regulations made under the OPGGS Act. When those regulations sunset and are remade with a new title, there was a risk that the references would become ineffective. Additionally, provisions in the

regulations that are integral to the meaning and application of defined terms and requirements in the OPGGS Act may be renumbered in remade regulations, even if their content remains comparable.

Schedule 18 to the Miscellaneous Amendments Bill amended the OPGGS Act to remove the references to specific titles of regulations, and instead enable references to the titles of regulations, or reference to provisions of regulations, to be prescribed by regulations under the OPGGS Act.

New Part 11B fully implements the amendments to the OPGGS Act by prescribing the relevant regulations, or provisions of regulations, for provisions of the OPGGS Act.

Schedule 3 – Environment

Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2009

Item 1 – Regulation 4 (definition of **Regulator**)

This item amends the definition of **Regulator** for the purposes of the Environment Regulations to provide that NOPSEMA is the regulator with respect to environmental management of both petroleum and greenhouse gas activities. Previously, the responsible Commonwealth Minister was the regulator of environmental management of greenhouse gas activities.

The Miscellaneous Amendments Act amended the OPGGS Act to transfer regulatory oversight for greenhouse gas wells and environmental management from the responsible Commonwealth Minister to NOPSEMA. NOPSEMA has developed substantial expertise in the regulation of offshore environmental management and well operations through its responsibility for the regulation of offshore petroleum activities. The transfer of regulatory oversight ensures an experienced and independent regulator for offshore greenhouse gas storage activities.

The amendments to the Environment Regulations in the Amendment Regulations complete the implementation of the transfer of regulatory oversight.

Item 2 – Subparagraph 23(2)(a)(ii)

Subparagraph 23(2)(a)(ii) previously provided that a ground for the Regulator to withdraw acceptance of an environment plan is that the titleholder has not complied with a direction given by “the Regulator” under section 574, 576B, 580, 586 or 592 of the OPGGS Act.

A direction under section 574, 576B or 596 may be given by NOPSEMA, while a direction under section 580 or 592 may be given by the responsible Commonwealth Minister. As the definition of **Regulator** has been amended by item 1 to refer only to NOPSEMA, it is necessary to include a specific reference to the Minister in subparagraph 23(2)(a)(ii). This item amends the subparagraph to refer to a direction given by the Regulator under section 574, 576B or 580, or a direction given by the Minister under section 580 or 592.

Division 1 of Part 1 of Schedule 1 to the Miscellaneous Amendments Act amended the OPGGS Act to insert powers for NOPSEMA to give directions to greenhouse gas titleholders

equivalent to those that may be given by the Minister under section 580 or 592. The powers are included in new sections 579A and 591B respectively. This item amends subparagraph 23(2)(a)(ii) to include a reference to a direction given by the Regulator under section 579A or 591B. A failure by a titleholder to comply with such a direction is a ground for withdrawal of acceptance of an environment plan.

Item 3 – Paragraph 28(2)(b)

This item repeals paragraph 28(2)(b).

Paragraph 28(2)(b) required a titleholder to make copies of records available, on request in writing, to a delegate of the responsible Commonwealth Minister. Given that the Minister is no longer the regulator for environmental management of greenhouse gas activities (see discussion at item 1), it is not necessary for a delegate of the Minister to be given copies of records relating to the titleholder’s environmental management of an activity.

Item 4 – Paragraph 28(2)(c)

Paragraph 28(2)(c) previously required a titleholder to make copies of records available, on request in writing, to a greenhouse gas project inspector, a NOPSEMA inspector or a Greater Sunrise visiting inspector. Division 1 of Part 1 of Schedule 1 to the Miscellaneous Amendments Act amended the OPGGS Act to abolish greenhouse gas project inspectors. Greenhouse gas-related inspectorate functions and powers are now exercised by NOPSEMA inspectors.

This item amends paragraph 28(2)(c) to remove the reference to a greenhouse gas project inspector.

Item 5 – Paragraph 28(4)(a)

This item repeals paragraph 28(4)(a) as a consequence of the amendment made by item 3 to remove the requirement to give copies of records to a delegate of the responsible Commonwealth Minister.

Item 6 – Paragraph 28(4)(b)

This item amends paragraph 28(4)(b) to remove references to a greenhouse gas project inspector. See discussion at item 4.

Item 7 – Paragraph 28(4)(b)

This item removes the reference to a “petroleum project inspector” in paragraph 28(4)(b) and replaces it with a reference to a “NOPSEMA inspector”. The *Offshore Petroleum and Greenhouse Gas Storage Amendment (Compliance Measures) Act 2013* amended the OPGGS Act to abolish two categories of inspector (petroleum project inspectors and OHS inspectors), and instead provide for the Chief Executive Officer of NOPSEMA to appoint ‘NOPSEMA inspectors’ to conduct inspections to monitor and investigate compliance with the OPGGS Act and regulations. The amendments commenced on 1 October 2014.

Item 8 – In the appropriate position in Part 5

This item inserts a transitional provision for the purposes of the Amendment Regulations.

The transitional provision ensures that on and after commencement of the amendments to the Environment Regulations made by the Amendment Regulations, the Environment Regulations apply so that anything done by or in relation to the responsible Commonwealth Minister as the previous Regulator of environmental management of greenhouse gas activities prior to commencement of the amendments is taken to have been done by or in relation to NOPSEMA as the new Regulator.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Offshore Petroleum and Greenhouse Gas Storage Legislation Amendment (Greenhouse Gas Storage) Regulations 2020

These Regulations are consistent with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The *Offshore Petroleum and Greenhouse Gas Storage Legislation Amendment (Greenhouse Gas Storage) Regulations 2020* (the Amendment Regulations) are a legislative instrument for the purposes of the *Legislation Act 2003*.

The Amendment Regulations make consequential amendments to the *Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2011* (the RMA Regulations), the *Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2009* and the *Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Regulations 2004* to fully implement measures in the *Offshore Petroleum and Greenhouse Gas Storage Amendment (Miscellaneous Amendments) Act 2019* (the Miscellaneous Amendments Act) and the *Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Amendment Act 2019* (Levies Amendment Act).

The Amendment Regulations implement measures in the Miscellaneous Amendments Act and the Levies Amendment Act to:

- Transfer regulatory responsibility for offshore greenhouse gas wells and environmental management from the responsible Commonwealth Minister to the National Offshore Petroleum Safety and Environmental Management Authority
- Future-proof references to regulations made under the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (the OPGGS Act).

The Amendment Regulations also implement measures in the Levies Amendment Act to:

- Revise provisions which impose a well activity levy as a consequence of previous amendments to the RMA Regulations
- Revise provisions which impose a safety investigation levy and well investigation levy as a consequence of previous amendments to the OPGGS Act.

Human rights implications

The Amendment Regulations make consequential technical amendments only and do not engage any of the applicable rights or freedoms.

Conclusion

The Amendment Regulations are compatible with human rights as they do not raise any human rights issues.

The Hon Keith Pitt MP
Minister for Resources, Water and Northern Australia