



Australian Government

**Department of Resources,
Energy and Tourism**

**Department of Finance
and Deregulation**

Issues Paper

October 2011

**A rigorous compliance and enforcement regime for
offshore petroleum activities in Australia**

Table of Contents

| | |
|--|----|
| Consultation process..... | 3 |
| Introduction | 4 |
| Purpose..... | 4 |
| Montara Commission of Inquiry..... | 5 |
| Recent offshore petroleum regulatory reforms | 5 |
| Scope of Review | 6 |
| Offshore petroleum regulatory regime | 8 |
| Imprisonment versus fine..... | 9 |
| Civil penalties versus criminal offences | 10 |
| Other types of sanctions..... | 11 |
| Matters for stakeholder comment..... | 12 |
| Next steps | 15 |
| Useful references | 16 |
| Copyright Notice | 18 |

Consultation process

Interested parties are invited to make written submissions that address, but need not be limited by, the issues raised in this paper including supporting information such as examples and evidence where relevant.

Submissions may be lodged electronically or by post. Please direct submissions to:

Email: MontaraInquiryResponse@ret.gov.au

Montara Response Team
Resources Division
Department of Resources, Energy and Tourism
GPO Box 1564
CANBERRA ACT 2600

Closing dates for submissions is **5pm, Friday 16 December 2011.**

Submissions will not be published on the Department of Resources, Energy and Tourism website unless with prior written consent or unless required by law.

If you would like your submission or any part of it, to be treated as 'confidential' please indicate this clearly. A request made under the *Freedom of Information Act 1982* (Cth) for a submission marked confidential to be made available will be determined in accordance with that Act. Under *Freedom of Information Act 1982*, agencies and ministers need to publish on their websites information that has been released in response to freedom of information access requests.

Further information is available at www.ret.gov.au/montarainquiryresponse

Introduction

The 21 August 2009 uncontrolled release of oil and gas from the Montara Wellhead Platform in the Timor Sea, and the 20 April 2010 incident at the Macondo oil field in the Gulf of Mexico, served as strong reminders to governments, regulators, the offshore petroleum industry and the broader community of the risks of complacency in the operation and regulation of offshore petroleum activities.

The Commonwealth Government has moved quickly to learn and implement the lessons arising from these incidents and is working to improve the protection of human health and safety and the marine environment so as to ensure that Australia continues to have a strong, safe and competitive offshore petroleum industry which is able to contribute to Australia's ongoing energy security and economic prosperity.

Purpose

The purpose of this Issues Paper is to consult on action to be taken by the Government in relation to recommendation 71 of the Report of the Montara Commission of Inquiry (the Inquiry), which stated that:

“There should be a review to determine whether it is appropriate to introduce a rigorous civil penalty regime and/or substantially increase some or all of the penalties that can be imposed for breaches of legislative requirements relating to well integrity and safety” (Report of the Montara Commission of Inquiry: pg 233).

The Government's Final Response to the Inquiry noted that the:

“Commonwealth is considering amending the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (OPPGS Act) to provide the power to impose a civil penalty regime. This process will also consider increasing some or all of the existing penalties” (Final Government Response: pg 64).

This Issues Paper identifies and proposes matters and issues for consideration in a review of compliance and enforcement measures in the OPGGS Act and its associated regulations (the Review). As a first step, this Issues Paper seeks comments and input from stakeholders to assist in the development of an appropriate, and effective, civil penalties regime for the OPGGS Act. Norton Rose Australia has been engaged to support the review.

The Implementation Plan (refer p114) that formed part of the Government's Final Response to the Montara Commission of Inquiry stated that the development of a compliance and enforcement regime would be part of a broader *Offshore Petroleum and Marine Environment Legislative Review*.

Subsequent to the release of the Government Response, the Government agreed that the *Offshore Petroleum and Marine Environment Legislative Review* be taken forward as a Better Regulation Ministerial Partnership (the Partnership) between the Minister for Finance and Deregulation and the Minister for Resources and Energy. The purpose of the Partnership is to examine all Commonwealth legislation applicable to the offshore petroleum industry with the aim of improving the current objective based regulatory

framework and providing the offshore petroleum industry with certainty when operating in Australian waters.

Montara Commission of Inquiry

On 5 November 2009, the Hon Martin Ferguson AM MP, Minister for Resources and Energy, announced a Commission of Inquiry into the uncontrolled release of oil and gas from the Montara Wellhead Platform in the Timor Sea. The [Montara Commission of Inquiry](#) (the Inquiry) was established under Part 9.10A of the OPGGS Act. The Inquiry had all the powers of a royal commission under the *Royal Commissions Act 1902*, including the power to require companies and individuals to provide relevant documents to the Inquiry and the power to summons witnesses and take sworn evidence.

The Inquiry focused on the likely cause(s) of the incident, the adequacy of the response and the effectiveness of the regulatory regime, including any changes that may be required to further strengthen existing arrangements and prevent future occurrences.

On 18 June 2010, the Inquiry presented its report to the Australian Minister for Resources and Energy. The [Report of the Montara Commission of Inquiry](#) contains eight chapters with 100 findings and 105 recommendations with wide-ranging implications for government, regulators and the offshore petroleum industry.

On 24 November 2010, the Australian Government released the *Report of the Montara Commission of Inquiry* and the draft Australian Government response, and undertook a three month comprehensive stakeholder consultation period, to fully inform its final response.

On 25 May 2011, the Australian Government released its [Final Response to the Report of the Montara Commission of Inquiry](#). The final Response accepts 92, notes 10, and does not accept three of the 105 recommendations. The final Government response also included an implementation plan for the accepted recommendations.

The *Report of the Montara Commission of Inquiry*, submissions on the Draft Government response and the Government's Final Response, and other documents relevant to the Commission of Inquiry and the Government's consideration of the Report, are available at www.ret.gov.au/montarainquiryresponse.

Recent offshore petroleum regulatory reforms

On 15 September 2011, the Offshore Petroleum and Greenhouse Gas Storage Amendment (National Regulator) Bill 2011 and associated Bills were passed by both Houses of the Australian Parliament and received assent on 14 October 2011. These Acts give effect to institutional reforms, leading to the establishment of a single national regulator for the offshore oil and gas industry, the National Offshore Petroleum Safety and Environment Management Authority (NOPSEMA), and the National Offshore Petroleum Titles Administrator (NOPTA), from 1 January 2012.

NOPSEMA will provide a comprehensive and integrated approach to the regulation of human health and safety, the integrity of facilities, including wells, and the environment. It will see the Commonwealth assume responsibility for the regulation of all petroleum activities within Commonwealth waters (i.e. beyond the three nautical mile territorial sea baseline to 200 nautical miles (Australia's Exclusive Economic Zone)).

In addition, the National Offshore Petroleum Titles Administrator (NOPTA) will be established to administer titles, collect, manage and release data, keep registers of petroleum and greenhouse gas titles, and provide information, analysis and recommendations to the Joint Authority (JA) to support JA decision-making. The continuing role of the JA (which comprises the responsible Commonwealth Minister and the relevant State/NT Minister) will ensure that state and territory governments continue to have an appropriate role in the decision making process, as well as being kept informed of relevant developments off state and territory coastlines.

It is important that NOPSEMA and NOPTA have appropriate powers to enable them to adequately fulfil their compliance monitoring and enforcement functions under the offshore petroleum legislative regime.

Scope of Review

Broadly defined, civil penalties are punitive sanctions for non-criminal conduct. They are deterrence-based with the aim of preventing or punishing public harm. Civil penalties are usually financial in nature, such as fines, but can also include injunctions, banning orders, licence revocations and orders for reparation and compensation.

The OPGGS Act and regulations contain only criminal offences, and no civil penalties are applied.

In the light of the Montara and Macondo incidents in the offshore petroleum industry, it is particularly timely for the Australian Government to reconsider compliance and enforcement measures that apply in the existing offshore petroleum legislative regime, including regulations, and to consider whether these measures are adequate and effective enough to prevent or deter parties from breaching their legislative obligations, potentially resulting in the occurrence of incidents with substantial and widespread implications for health, safety and the environment.

In implementing the Government's response to Recommendation 71 of the Report of the Montara Commission of Inquiry, and having regard to the establishment of NOPSEMA and NOPTA, the Review:

- will determine the appropriateness, adequacy, effectiveness and enforceability of the current offences and penalties regime under the OPGGS Act and regulations, in respect of the current investment and operating environment of the offshore petroleum industry;
- will recommend, as appropriate, new or revised offence and/or penalty measures (in terms of type, level and/or form) that are consistent with world leading regulatory practice to ensure compliance with the OPGGS Act, and support the prevention of serious safety or environmental incidents;
- will identify those matters that are better addressed on a no fault basis; and
- will provide an analysis of the costs and benefits and the type(s) of breaches, offences and suggested penalties (financial and non-financial).

In developing recommendations, the Review will give consideration to:

- Penalties and consequences identified in relevant international offshore petroleum and greenhouse gas storage legislative frameworks and their appropriateness for the Australian offshore petroleum regulatory framework;
- Penalties and consequences for like offences under other pieces of Commonwealth legislation (where applicable), including penalties (financial and non-financial) and consequences. For example, these include, but are not limited to:
 - the Model Workplace Health and Safety Bill;
 - the *Environment Protection and Biodiversity Conservation Act 1999*. In the Australian Government response to the Report of the independent review of the *Environment Protection and Biodiversity Conservation Act 1999* the Government committed to expanding the use of civil penalties and remedies under this Act;
 - the *Navigation Act 1912*. A Bill is currently before Parliament to introduce a civil penalty regime for offences under this Act; and
 - the *Protection of the Sea (Prevention of Pollution from Ships) Act 1983* (POTS Act). Amending legislation passed Parliament in late 2011 increasing criminal penalties to provide a maximum fine for a person to \$2.2 million and for a corporation to \$11 million. The POTS Act does not provide for a civil penalty regime.
- All options that may be available to the Regulator for penalising parties that breach their legislative obligations under the OPGGS Act or the Regulations. This will include:
 - inspections and examinations; notices and warning letters (perhaps including administrative fines/infringement notices); civil penalties; criminal penalties; imposition of increasingly stringent conditions; other administrative remedies such as remediation determinations and enforceable undertakings;
 - refusal to consider future endorsement (suspension and extension or variation) applications for companies if there are continual breaches of the legislative regime; and suspension or cancellation of petroleum titles;
 - alternative dispute resolutions include possible formal/mediated processes for negotiation and settlement; and
 - financial penalties, including the type of penalty (i.e. accumulation on a daily basis for each day a breach is not remedied, or whether it be a one-off financial penalty) and the appropriateness of the penalty against the offence(s).

Offshore petroleum regulatory regime

The OPGGS Act establishes a system for regulating exploration and recovery of petroleum, and construction and operation of infrastructure facilities and pipelines, in offshore areas.¹ It includes a number of offence provisions, with penalties ranging from imprisonment to the application of financial penalties, which aim to ensure that parties comply with their legislative obligations, thereby facilitating the safe, effective and efficient functioning of the offshore petroleum regime.

The OPGGS Act also sets out methods to monitor compliance with legislative obligations, including the appointment of inspectors with monitoring and investigative powers, to determine whether parties have complied with their legislative obligations under the Act.

The OPGGS Act is underpinned by six sets of Regulations relating to matters including safety, integrity of wells and well operations, environment, resource management and administration, levies and fees.

The safety, environment, resource management and administration Regulations include a series of offences and enforcement provisions, which aim to ensure that parties comply with their safety, well integrity, environmental and resource management obligations in petroleum-related operations.

The three sets of Regulations for levies and fees enable the Regulator for occupational health and safety and well integrity, the National Offshore Petroleum Safety Authority (NOPSA), to recover costs associated with discharging its regulatory functions and obligations under the OPGGS Act.

Offshore petroleum operations involve a high level of financial commitment and associated potential for financial profit. For example, depending on the type of rig and water depth, the average daily rates for a floating drilling rig may range from USD \$240,000 to USD \$460,000.² Total project costs are often hundreds of millions of dollars, or even many billions of dollars. The adequacy of the penalties specified in the OPGGS Act and regulations, particularly financial penalties, and the potential for the level of penalties to deter non-compliance needs to be considered in this context.

For example, the maximum penalty for failure to comply with a direction given by the Designated Authority under the OPGGS Act is 100 penalty units (equivalent to \$11,000 for an individual or \$55,000 for a corporation). Another example is the maximum penalty that can be applied for a breach of an operator's duty of care for occupational health and safety at or near a facility is 1000 penalty units (equivalent to \$110,000 for an individual or \$550,000 for a corporation). The penalty amounts are proportionally very small in the context of the costs of a petroleum exploration and production operation, despite the potential safety, resource and environmental risks or damage that may result from a breach of these requirements.

¹ The OPGGS Act also sets up a system for regulating exploration for potential greenhouse gas storage formations and injection and storage of greenhouse gas substances.

² Rigzone Offshore Rig Day Rates as at 6 October 2011: <http://www.rigzone.com/data/dayrates/>

Imprisonment versus fine³

Currently, the majority of offences in the OPGGS Act and regulations incur a financial penalty; however the maximum penalty for some offences is a period of imprisonment. For example, imprisonment is the penalty applied for a breach of the prohibition against conducting unauthorised exploration for, or recovery of, petroleum, or the unauthorised construction or operation of an infrastructure facility or pipeline, in an offshore area. A penalty of imprisonment is also applied to the offences of interfering with an offshore petroleum installation or operation, and unauthorised entry into a petroleum safety zone or the area to be avoided.

The relevant considerations leading to a decision to apply a penalty of imprisonment rather than a financial penalty include the seriousness of the offence, whether there are strong incentives to commit the offence, and the potential consequences of the commission of the offence. For example, a penalty of imprisonment has been applied to the offence of interfering with an offshore petroleum installation or operation in recognition of the isolation of offshore petroleum facilities, and the potential consequences of the commission of the offence, including potentially serious risks to persons on-board the facility or to the marine environment. A strong case is therefore able to be made to apply a penalty of imprisonment as a conspicuous deterrent against commission of the offence.

Another factor is that it is rare for a penalty of imprisonment to apply to an offence of strict liability (i.e. where the prosecution is not required to prove a fault element, such as intent, recklessness or negligence, on the part of the person committing the offence), given the relative ease of proving the offence. Amendments to the OPGGS Act in 2010 that made some offences strict liability offences also reduced the applicable penalty for those offences from a period of imprisonment to a financial penalty.

It should be noted that penalties of imprisonment may be converted to financial penalties. This will always occur when a body corporate is convicted of an offence, as it is not possible to subject a body corporate to a term of imprisonment; however this may also occur in relation to an individual who is convicted of an offence.

This review will take into account the policy considerations discussed above in analysing the appropriateness of applying a penalty of imprisonment or a financial penalty to various offences in the OPGGS Act. These considerations will also take into account the appropriateness of strict liability offences under the OPGGS Act.

³ The general principles in this section and the following section have in large part been drawn from the Attorney-General's Department's *A Guide to Framing Commonwealth Offences, Civil Penalties and Enforcement Powers*.

Civil penalties versus criminal offences

Criminal offences and civil penalties are two of the mechanisms that impose liability on a person for contravening a statutory requirement. The OPGGS Act and regulations currently contain only criminal offences, and no civil penalties are applied.

Traditionally, criminal offences are generally considered to carry a serious moral culpability, and therefore should only be pursued by criminal prosecution. For example, offences involving harm to a person or a serious danger to public safety are considered to warrant criminal prosecution and a criminal penalty. However, the decision to apply a criminal penalty may also be based on considerations of the deterrent value of a criminal penalty, and may not be confined to the most serious offences.

Civil penalties have traditionally been directed against corporate or “white collar” wrongdoing where imprisonment is either not available, as the wrongdoing is by a corporate entity, or is an inappropriate penalty. In these cases, it is considered that the financial disincentive that civil penalties provide is most likely to be effective.

Like a criminal offence, a civil penalty is subject to proceedings in court; however the proceedings are subject to the procedures and rules of evidence used in civil cases. For example, proof in a civil penalty proceeding is on the balance of probabilities (i.e. more likely than not), compared to the higher standard of proof for criminal offences, which is beyond reasonable doubt. In addition, civil penalty provisions can only carry a financial penalty, not an imprisonment penalty, and imposition of a civil penalty does not constitute a criminal conviction. Given that civil penalties are subject to court proceedings, the size of the maximum penalty must be sufficient to justify the expense and time required to take a matter to court. The Attorney-General’s Department’s *A Guide to Framing Commonwealth Offences, Civil Penalties and Enforcement Powers* suggests that the maximum penalty should be at least \$5,000 and typically more.

While criminal offences in Commonwealth legislation are pursued by the Commonwealth Director of Public Prosecutions, civil penalties may be pursued by other government agencies. For example, if an occupational health and safety provision in the OPGGS Act carried a civil penalty, NOPSA (NOPSEMA from 1 January 2012) could pursue any individual or corporation that breached the provision.

Civil penalties and criminal offences are two of the enforcement measures for non-compliance with the offshore petroleum regime that will be considered by this Review.

Other types of sanctions

The regulations under the OPGGS Act prohibit the carrying on of most forms of activity in Commonwealth waters unless the responsible person has obtained acceptance from the regulator (i.e. NOPSEMA post 1 January 2012) of the relevant plan.

Under the *Offshore Petroleum and Greenhouse Gas (Safety) Regulations 2009*, it is an offence to construct, operate, and modify (etc) a facility unless there is a safety case in force for the facility (regulation 2.44). It is also an offence to carry out such activities at a facility otherwise than in accordance with a safety case that is in force for the facility (regulation 2.45). The penalties imposed by the regulations are low (80 penalty units for an individual).

Notwithstanding the low level of penalty, this requirement to have a safety case in force provides an administrative enforcement mechanism for the operator's compliance with the whole occupational health and safety (OHS) regime under the OPGGS Act and the safety regulations – in particular, the OHS duties of care in Schedule 3 to the OPGGS Act and compliance with improvement and prohibition notices issued by OHS inspectors under Schedule 3. The incentive lies not in the financial penalties for non-compliance but in the potential for withdrawal of the acceptance of the safety case. The grounds for withdrawal of acceptance are in regulation 2.37. This is because, if the safety case acceptance is withdrawn, the operator must shut down the facility. There is a process that precedes any withdrawal of acceptance (Regulation 2.38). This includes that the regulator must take into account any action taken by the operator to remove the grounds for withdrawal of acceptance, or to prevent recurrence of the grounds.

Similar provisions exist in relation to environment plans under the *Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2009* and in relation to well operations management plans in Part 5 of the *Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2011*.

Matters for stakeholder comment

In developing a best practice list of offences and sanctions in a regulatory framework, the Department anticipates some or all of the following issues will need to be addressed. Stakeholders are invited to provide comment in response to some or all of these matters.

Issue 1: Ensuring that the penalties for offences are sufficient to provide a real and effective deterrent, having regard to the seriousness of each offence, and that it is proportionate with penalties for like/similar offences.

Question 1:

- A. What penalties in the OPGGS Act do provide a real and sufficient deterrent and why?
- B. What penalties in the OPGGS Act do not provide a real and sufficient deterrent and why?
- C. What compliance and/or enforcement measures would you recommend be included in the OPGGS Act to provide a real and effective deterrent and why?

Issue 2: Determining which types of offences should require proof of an intent element, and which types, if any, should be “no fault” offences.

Question 2:

- A. Which offences in the OPGGS Act do you consider are appropriate to contain a proof of intent element for determining non-compliance and/or a breach and why?
- B. Which offences do you consider are appropriate to be subject to a “no-fault” regime and why?

Issue 3: Whether defences such as ‘honest and reasonable mistake’ of fact should be available, whether the onus of proof should be shifted for certain elements or offences, and the use of other evidentiary presumptions.

Question 3:

- A. Should the defence of ‘honest and reasonable mistake’ be available? If so, for which offences do you consider this defence should be made available for and why?
- B. What onus of proof should apply to any such defences? Are there particular offences where the onus of proof should be reversed and if so, why?
- C. Are there any other evidentiary presumptions would you recommend be provided for in the OPGGS Act? If so, why?

Issue 4: Whether different penalties ought to be imposed for individuals and corporations, whether civil penalties should be used for corporations, directors and/or officers, and whether directors and/or officers of corporations should be personally liable for offences committed by corporations in some cases.

Question 4:

- A. Should civil penalties be used for corporations? Is the deterrent effect of civil penalties real and sufficient?
- B. Should directors and/or officers of corporations be personally liable for offences committed by corporations? If so, in what instances do you believe personal liability should apply and why?

Issue 5: Which offences, if any, could be dealt with by an infringement notice or penalty notice, or other administrative sanctions and orders (including remediation)?

Question 5:

- A. Are infringement or penalty notices appropriate and effective as a deterrent?
- B. Which offences do you consider appropriate to be the subject of administrative sanctions under the OPGGS Act and why?
- C. What type of administrative sanctions do you consider appropriate to include in the OPGGS Act based on the nature of the offshore petroleum industry and why?

Issue 6: The choice between criminal and/or civil penalty provisions for offences, and whether alternatives should be available depending on the seriousness of the conduct.

Question 6:

- A. Are there certain offences in the OPGGS Act which should only be criminal offences?
- B. What offences under the OPGGS Act do you believe may be appropriate for criminal and/or civil penalty based on the level of culpability and why?

Issue 7: Achieving the right balance between offences that are general enough to capture all relevant conduct and that remain applicable as the nature of offending conduct changes, and that are specific enough to provide the public with information that the liability for committing an offence under the OPGGS Act is proportionate to the non-compliance breach.

Question 7:

- A. What amount of information do you consider should be made available to the public by the regulator relating to non-compliance under the OPGGS Act and why?
- B. Why do you believe the provision of this information would provide a sufficient and real deterrent?

Issue 8: Developing appropriate evidence gathering powers to support the offence provisions, having regard to the elements of the offences and what would need to be proven to establish an offence had been committed.

Question 8:

- A. What sort of compliance monitoring, investigation and evidence gathering powers should the regulator have?
- B. What protections should be available to individual and/or corporations in response to such powers?

Issue 9: Identify any impacts, impediments, including benefits and costs, in respect of your recommendations/considerations for addressing the above issues?

Question 9:

- A. What do you see as the key impacts and benefits (financial and non-financial) of introducing new criminal and/pr civil penalty provisions to the following:
- Government;
 - Regulator(s);
 - Industry;
 - Stakeholders; and
 - Broader community

Issue 10: Identify new or revised offences and/or penalty measures that are consistent with world leading regulatory practice

Question 10:

- A. What offences and/or penalty measures should be introduced in the OPGGS Act to ensure the efficient and effective operation of the offshore petroleum industry whilst at the same time deterring conduct that would result in serious safety or environmental incidents?
- B. What offences and/or penalty measures should be introduced to comply with international best practice in the regulation of the offshore petroleum industry?

Issue 11: Other matters that may be relevant to the Review

Question 11:

- A. Is there any other information which is relevant to Recommendation 71 of the *Report of the Montara Commission of Inquiry* and this Review that you consider should be raised? If so, please provide detailed comments.

Next steps

Norton Rose Australia will draw upon submissions to prepare a report for the Partnership's consideration. The Partnership is due to make its recommendations to Government by June 2012, with any legislative amendments to proceed thereafter. It is likely that the Partnership will consult further, on related issues, in the first half of 2012.

Useful references

The Enforcement Pyramid – Neil Gunningham



The Enforcement Pyramid involves advisory and persuasive measures at the bottom, mild administrative sanctions in the middle, and punitive sanctions at the top, is intended to assist in determining what enforcement tools to use in any given case.

According to its proponents, regulators should begin by assuming virtue (to which they should respond by offering co-operation), but when their expectations are disappointed, they respond with progressively punitive and deterrent-oriented strategies until the regulated group conforms.

Central to this model are the need for (i) gradual escalation up the face of the pyramid and (ii) the existence of a credible peak or tip which, if activated, will be sufficiently powerful to deter even the most egregious offender. The first option (gradual escalation – rather than any abrupt shift from low to high interventionism) is desirable because it facilitates the ‘tit for tat’ response on the part of regulators which forms the basis for responsive regulation. Although the concept of an enforcement pyramid has its critics, it provides a valuable conceptual framework for thinking about the various tools available to enforcement officers, and how they might be used to optimal effect.

In the past, regulators in all the mining states have prosecuted and obtained legal sanctions against violators in only a very small number of cases, if at all. They have dealt

with most detected violations by means of advice, warnings and demands for remedial action at the bottom of the 'pyramid of sanctions', or at its middle levels through various forms of administrative action and directions. They have adopted what the regulatory literature terms a 'compliance' strategy: one which relies heavily upon advice and persuasion to the virtual exclusion of more punitive policies and sanctions, and which rejects deterrence and prosecution almost entirely.

In developing the offence provisions and sanctions for Commonwealth legislation, regard will be given to the principles developed in the general law and appropriate reviews and reports, including:

- Commonwealth Attorney-General's Department, [Guide to Framing Commonwealth Offences, Civil Penalties and Enforcement Powers](#);
- Office of Parliamentary Counsel, [Drafting Direction on Offences, penalties, self-incrimination, secrecy provision and enforcement powers](#);
- Senate Scrutiny of Bills Committee, [Position paper on Scrutiny of National Schemes of Legislation](#);
- Administrative Review Council, Report No. 48, [The Coercive Information Gathering Powers of Government Agencies](#);
- Australian Law Reform Commission, Report 95, [Principled Regulation: Federal Civil and Administrative Penalties in Australia](#).

Copyright Notice



This work is licensed under a Creative Commons Attribution 2.5 Australia licence. To the extent that copyright subsists in third party quotes and diagrams it remains with the original owner and permission may be required to reuse the material.

This work should be attributed as: Issues Paper: A rigorous compliance and enforcement regime for offshore petroleum activities in Australia (October 2011)

Inquiries regarding the licence and any use of Issues Paper: A rigorous compliance and enforcement regime for offshore petroleum activities in Australia (October 2011) are welcome at:

General Manager
Montara Response Team/Offshore Resources Branch
Resources Division
Department of Resources, Energy and Tourism
GPO Box 1564
CANBERRA ACT 2600

Email: MontaraInquiryResponse@ret.gov.au