

RESOURCES, ENERGY AND TOURISM PORTFOLIO

ANNUAL REGULATORY PLAN 2011-2012

Resources, Energy and Tourism – Annual Regulatory Plan

Part 1 – Changes to business regulation which occurred during 2010-2011.....	4
Offshore Petroleum and Greenhouse Gas Storage Legislation Amendment (Miscellaneous Measures) Bill 2010	4
Offshore Petroleum and Greenhouse Gas Storage (Safety Levies) Amendment Bill 2010.....	5
Offshore Petroleum and Greenhouse Gas Storage Regulatory Levies Legislation Amendment (2011 Measures No. 1) Bill 2011	6
Offshore Petroleum and Greenhouse Gas Storage Regulatory Levies (Consequential Amendments) Bill 2011	6
Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Amendment Regulations 2011	6
Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2011	8
Repeal of Offshore Petroleum and Greenhouse Gas Storage (Management of Greenhouse Gas Well Operations) Regulations 2010	10
Repeal of Offshore Petroleum and Greenhouse Gas Storage (Greenhouse Gas Datum) Regulations 2010	11
Amendment of Offshore Petroleum (Safety) Regulations 2009 to Offshore Petroleum and Greenhouse Gas Storage (Safety) Regulations 2009.....	12
Implementation of Offshore Petroleum and Greenhouse Gas Storage (Greenhouse Gas Injection and Storage) Regulations 2010.....	13
Part 2 – Activities planned during 2011-2012 which could lead to changes to business regulation.....	14
Offshore Petroleum and Greenhouse Gas Storage Amendment (National Regulator) Act 2011 and Associated Acts – implementation of offshore petroleum regulatory reform.....	14
Implementation of Offshore Mining Regulatory Reform.....	16
Offshore Petroleum and Greenhouse Gas Storage Amendment Regulations to implement petroleum regulatory reform.....	17
Offshore Mining Amendment Regulations to implement petroleum regulatory reform.....	19
Offshore Resources Legislation Amendment (Personal Property Securities) Act 2011.....	20
Offshore Petroleum and Greenhouse Gas Storage Amendment (Significant Incident Directions) Bill 2011.....	22
Offshore Petroleum and Greenhouse Gas Storage Act 2006 (OPGGSA) – miscellaneous amendments.....	24
Implementation of the Final Government Response to the Report of the Montara Commission of Inquiry	26
Offshore Petroleum and Greenhouse Gas Storage Act 2006 – marine amendments	28
Technical amendments to the Offshore Petroleum and Greenhouse Gas Storage (Safety) Regulations 2009.....	29
Review of the Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2009	31

Review of Part 5 of the Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2009 – regulations relating to well operations.....	33
National Energy Customer Framework	34
Clean Future for Power Stations	35

Part 1 – Changes to business regulation which occurred during 2010-2011

Offshore Petroleum and Greenhouse Gas Storage Legislation Amendment (Miscellaneous Measures) Bill 2010

Title	<i>Offshore Petroleum and Greenhouse Gas Storage Legislation Amendment (Miscellaneous Measures) Bill 2010</i>
Description of issue	<p>This Bill made several minor technical and policy amendments to the <i>Offshore Petroleum and Greenhouse Gas Storage Act 2006</i> (the Act). These included:</p> <ul style="list-style-type: none"> • Augmented the functions of the National Offshore Petroleum Safety Authority (NOPSA) to include regulatory oversight of non-occupational health and safety-related structural integrity for facilities, wells and well-related equipment (effectively providing NOPSA with regulatory responsibility for the entirety of structural integrity). • Clarified how titleholder provisions relating to making applications and requests and giving nominations and notices, and titleholder provisions establishing obligations, apply where titles are held jointly by two or more titleholders (multiple titleholders). • To improve compliance in the offshore petroleum regime, made certain offence provisions applying to titleholders, where the offence consists of a physical element (i.e. the doing of or failure to do an act), offences of strict liability (i.e. where a fault element, such as intention, recklessness or negligence, does not need to be proved). • Clarified that the responsible State and Northern Territory Ministers may perform functions conferred under regulations as members of the Joint Authority and as the Designated Authority. • Clarified that a titleholder's occupational health and safety responsibilities relate only to wells and not to facilities more generally, and improved NOPSA's inspection and investigation powers in relation to suspected breaches of the titleholder duty of care. • Made a technical correction to link subclause 57(4) of Schedule 3 to the correct provisions of clause 61 of Schedule 3. • Updates listed OHS laws in section 638 and provided transitional provisions.
Date of effect	Royal assent received on 16 November 2010.

Offshore Petroleum and Greenhouse Gas Storage (Safety Levies) Amendment Bill 2010

Title	<i>Offshore Petroleum and Greenhouse Gas Storage (Safety Levies) Amendment Bill 2010</i>
Description of issue	<p>This Bill amended the <i>Offshore Petroleum and Greenhouse Storage (Safety Levies) Act 2003</i> to provide transitional arrangements from 1 January 2010 to 31 December 2012 in relation to application of safety case levy in designated State and Territory coastal waters following extension of the safety case levy to cover pipelines. The transitional arrangements provide that for the stated period where a pipeline safety management plan is in force for a pipeline in designated coastal waters this is treated as if a safety case was in force.</p> <p>The transitional arrangements were required to give States and the Northern Territory sufficient time to implement amendments to their regulations corresponding to amendments to the Commonwealth regulations that remove references to pipeline safety management plans and extended safety cases to cover pipelines. In the meantime, the transitional arrangements ensure that the safety case levy can continue to be collected by the National Offshore Petroleum Safety Authority in relation to pipelines in designated coastal waters.</p>
Date of effect	Royal assent received on 16 November 2010.

Offshore Petroleum and Greenhouse Gas Storage Regulatory Levies Legislation Amendment (2011 Measures No. 1) Bill 2011

Offshore Petroleum and Greenhouse Gas Storage Regulatory Levies (Consequential Amendments) Bill 2011

Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Amendment Regulations 2011

Title	<p><i>Offshore Petroleum and Greenhouse Gas Storage Regulatory Levies Legislation Amendment (2011 Measures No. 1) Bill 2011</i></p> <p><i>Offshore Petroleum and Greenhouse Gas Storage Regulatory Levies (Consequential Amendments) Bill 2011</i></p> <p><i>Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Amendment Regulations 2011</i></p>
Description of issue	<p>The <i>Offshore Petroleum and Greenhouse Gas Storage Regulatory Levies Legislation Amendment (2011 Measures No. 1) Bill 2011</i> (Regulatory Levies Bill) amended the <i>Offshore Petroleum and Greenhouse Gas Storage (Safety Levies) Act 2003</i> (which it also re-named the <i>Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Act 2003</i>) to impose cost-recovery levies on offshore petroleum titleholders in respect of wells and well-related activities in those titleholders' title areas. The levies enable the National Offshore Petroleum Safety Authority (NOPSA) to recover the costs of its regulatory functions in relation to structural integrity and safety of wells and well-related equipment.</p> <p>This follows from amendments to the <i>Offshore Petroleum and Greenhouse Gas Storage Act 2006</i> (the OPGGSA) that augmented NOPSA's functions to include non-occupational health and safety-related structural integrity of facilities, wells and well-related equipment (effectively giving NOPSA regulatory responsibility for the entirety of structural integrity), and that clarified the titleholder OHS duty in relation to wells, which NOPSA is responsible for monitoring and enforcing. In addition, from 29 April 2011, NOPSA is responsible for administering well-related regulations in Part 5 of the <i>Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2011</i>, including acceptance of well operations management plans and well activity approvals.</p> <p>As amended, the Regulatory Levies Act provides for the imposition of three types of levies:</p> <ul style="list-style-type: none"> • An annual well levy, imposed on the titleholder at the end of each year, with the levy amount based on the number of non-abandoned wells that existed in the title area at the end of the year.

	<ul style="list-style-type: none"> • A well activity levy, imposed on a titleholder when the titleholder makes an application to NOPSA for either acceptance of a well operations management plan or to commence an activity relating to a well. • A well investigation levy, imposed on a titleholder when NOPSA’s reasonable costs of an inspection in relation to a breach or suspected breach of the titleholder duty of care in relation to wells exceeds \$30,000. <p>The <i>Offshore Petroleum and Greenhouse Gas Storage Regulatory Levies (Consequential Amendments) Bill 2011</i> amended the OPGGSA to deal with consequential matters arising from the enactment of the Regulatory Levies Bill. These amendments ensure that the well levies can be calculated and collected effectively and provide for application of a late payment penalty.</p> <p>The <i>Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Amendment Regulations 2011</i> amended the <i>Offshore Petroleum and Greenhouse Gas Storage (Safety Levies) Regulations 2004</i> (which it also re-named the <i>Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Regulations 2004</i>) to detail the calculation and composition of the well levies under the Regulatory Levies Act.</p>
Date of effect	<p>Royal assent to the two Bills received on 25 May 2011. The amending provisions commenced by Proclamation on 17 June 2011.</p> <p>The amending Regulations also commenced on 17 June 2011.</p>

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

Title	Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2011
Description of issue	<p>The <i>Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2011</i> (the RMA Regulations) represented the final stage of consolidating nine sets of regulations under the <i>Offshore Petroleum and Greenhouse Gas Storage Act 2006</i> (OPGGSA) into three sets (with the consolidation of the safety and environment-related regulations being completed in 2009). The final consolidation brought together the remainder of the outstanding regulations that related broadly in terms of theme or objective to the resource management and administration of offshore petroleum (and some greenhouse gas storage activities), and repealed the previous sets of regulations.</p> <p>Also included in the consolidation project were the remaining parts of the <i>Schedule of Specific Requirements as to Offshore Petroleum Exploration and Production in Waters Under Commonwealth Jurisdiction</i> (the Schedule), which is a set of prescriptive, standing directions made under section 574 of the OPGGSA. The intention is that the entire Schedule will be revoked so that the RMA Regulations will clearly apply and have complete coverage.</p> <p>While primarily a consolidation exercise, a number of important regulatory requirements and changes were also included in the RMA Regulations including:</p> <ul style="list-style-type: none"> • Formalising field development plan requirements and procedures in regulations, where these were previously contained in guidelines only; • Change in the regulator for petroleum well operations and activities from the Designated Authorities to the National Offshore Petroleum Safety Authority; • Outlining standard data management submission and release parameters in regulations, where these were previously contained in guidelines only; • Removal of pipeline management plans, to fully implement previous legislative changes in relation to the plans and reflect incorporation of pipelines into the safety case regime.
Date of effect	The RMA Regulations commenced on 29 April 2011.

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**Repeal of Offshore Petroleum and Greenhouse Gas Storage
(Management of Greenhouse Gas Well Operations)
Regulations 2010**

Type of entry	Completed Activity
Description of issue	<p>These Regulations were repealed by the <i>Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulation 2011</i>, which came into effect on 21 April 2011.</p> <p>Regulations dealing with greenhouse gas well operations were incorporated into the <i>Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulation 2011</i> (http://www.comlaw.gov.au/Details/F2011C00862/Download).</p>
Date of effect	21 April 2011
Contact details	<p>Steve Tantala Manager CO2 Transport and Storage Section Low Emissions Coal & CO2 Storage Branch Clean Energy Division</p> <p>Tele: 02 6213 7934</p> <p>Email: steve.tantala@ret.gov.au</p>

Repeal of Offshore Petroleum and Greenhouse Gas Storage (Greenhouse Gas Datum) Regulations 2010

Type of entry	Completed Activity
Description of issue	<p>These Regulations were repealed by the <i>Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulation 2011</i>, which came into effect on 21 April 2011.</p> <p>Regulations dealing with greenhouse gas datum related matters were incorporated into the <i>Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulation 2011</i> (http://www.comlaw.gov.au/Details/F2011C00862/Download).</p>
Date of effect	21 April 2011
Contact details	<p>Steve Tantala Manager CO2 Transport and Storage Section Low Emissions Coal & CO2 Storage Branch Clean Energy Division</p> <p>Tele: 02 6213 7934</p> <p>Email: steve.tantala@ret.gov.au</p>

Amendment of Offshore Petroleum (Safety) Regulations 2009 to Offshore Petroleum and Greenhouse Gas Storage (Safety) Regulations 2009

Type of entity	Completed activity
Title	<i>Offshore Petroleum and Greenhouse gas Storage (Safety) Regulations 2009</i>
Description of issue	<p>The <i>Offshore Petroleum (Safety) Regulations 2009</i> only covered occupational health and safety (OH&S) matters related to offshore petroleum operations. These Regulations were amended to <i>Offshore Petroleum and Greenhouse gas Storage (Safety) Regulations 2009</i> to deal with both offshore greenhouse gas and offshore petroleum operations. This was possible with minor amendments, because OH&S matters relating to offshore greenhouse gas operations and petroleum operations are almost identical and administered by a single regulator (National Offshore Petroleum Safety Authority - NOPSA).</p> <p>The amended <i>Offshore Petroleum and Greenhouse gas Storage (Safety) Regulations 2009</i>, which came into effect on 8 June 2011, are available at: http://www.comlaw.gov.au/Details/F2010C00422/Download.</p>
Date of effect	8 June 2011.
Contact details	<p><i>For greenhouse gas storage questions please contact:</i></p> <p>Steve Tantala Manager CO2 Transport and Storage Section Low Emissions Coal & CO2 Storage Branch Clean Energy Division</p> <p>Tele: 02 6213 7934</p> <p>Email: steve.tantala@ret.gov.au</p>

Implementation of Offshore Petroleum and Greenhouse Gas Storage (Greenhouse Gas Injection and Storage) Regulations 2010

Type of entry	Completed Activity
Title	<i>Offshore Petroleum and Greenhouse Gas Storage (Greenhouse Gas Injection and Storage) Regulations 2011</i>
Description of issue	<p>These Regulations will underpin offshore greenhouse gas injection and storage operations under the <i>Offshore Petroleum and Greenhouse Gas Storage Act 2006</i>. The main issues covered by the regulations are: Declaration of identified storage formations for GHG injection and storage; Site Plan requirements for GHG injection and storage; Significant Risk of a Significant Adverse Impact Test; Incident reporting; and Other matters, including decommissioning and discharge of securities.</p> <p>These regulations are available at: http://www.comlaw.gov.au/Details/F2011L01106/Download.</p>
Consultation opportunities	<p>The Department developed these Regulations in consultations with stakeholders, including other Australian Government agencies, State and Territory governments, the potential storage industry, the petroleum industry and environmental NGOs, through discussion papers, meetings and workshops. In August 2010, the Department circulated a consultation draft of the proposed Regulations to all stakeholders, for a six week comment period. Following the stakeholder responses, the department hold two workshops in November 2010 to discuss significant issues relating to the draft Regulations. The final Regulations have addressed the significant issues stakeholders raised during the consultation process.</p>
Date of effect	. 16 June 2011
Contact details	<p>Steve Tantala Manager CO2 Transport and Storage Section Low Emissions Coal & CO2 Storage Branch Clean Energy Division</p> <p>Tele: 02 6213 7934</p> <p>Email: steve.tantala@ret.gov.au</p>
Date last modified	22 November 2010

Part 2 – Activities planned during 2011-2012 which could lead to changes to business regulation

Offshore Petroleum and Greenhouse Gas Storage Amendment (National Regulator) Act 2011 and Associated Acts – implementation of offshore petroleum regulatory reform

Title	<p>Implementation of National Regulator Act and Associated Acts including:</p> <p><i>Offshore Petroleum and Greenhouse Gas Storage Amendment (National Regulator) Act 2011</i></p> <p><i>Offshore Petroleum and Greenhouse Gas Storage (Registration Fees) Amendment Act 2011</i></p> <p><i>Offshore Petroleum (Royalty) Amendment Act 2011</i></p> <p><i>Offshore Petroleum and Greenhouse Gas Storage Regulatory Levies Legislation Amendment (2011 Measures No. 2) Act 2011</i></p>
Description of issue	<p>These Acts:</p> <ul style="list-style-type: none"> • expand the functions of the National Offshore Petroleum Safety Authority (NOPSA) to become the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA), the regulator of occupational health and safety, integrity of facilities and wells, environmental management, and day-to-day operations relating to petroleum activities in Commonwealth waters; • create a National Offshore Petroleum Titles Administrator (NOPTA), in the Department of Resources, Energy and Tourism, to advise the Joint Authority on petroleum titles and to administer titles and data; • impose cost-recovery levies on holders of offshore petroleum titles in respect of environmental approvals and titles administration under the <i>Offshore Petroleum and Greenhouse Gas Storage Act 2006</i> (OPGGSA) to fund the regulatory activities of NOPSEMA and NOPTA; • allow the Commonwealth to retain the monies that are payable under sections 5 and 6 of the Registration Fees Act to recover the establishment costs of NOPSEMA and NOPTA; • make consequential amendments to the <i>Offshore Petroleum and Greenhouse Gas Storage (Registration Fees) Act 2006</i> and the <i>Offshore Petroleum (Royalty) Act 2006</i>.

	<p>The regulatory reforms in these Acts are in response to:</p> <ul style="list-style-type: none"> • the Productivity Commission Review of Regulatory Burden on the Upstream Petroleum (Oil & Gas) Sector (April 2009); • the Report of the Commission of Inquiry into the Uncontrolled Release of Hydrocarbons from the Montara Wellhead (June 2010); and • extensive consultation with stakeholders in framing the Government's response to the above reports.
Consultation opportunities	<p>Extensive consultation occurred in the preparation of the reports by the Productivity Commission and the Montara Commission of Inquiry. Further extensive consultation occurred in the preparation of the Government's response to those reports and on the design of the Government's offshore petroleum reform package. The National Regulator Bills were introduced into the Parliament on 25 May 2011. Consultation sessions on the Bills were subsequently held with stakeholders in Melbourne and Perth. The Bills were also referred for report to the House of Representatives Standing Committee on Agriculture, Resources, Fisheries and Forestry and the Senate Economics Legislation Committee. The Committees both sought submissions and held hearings prior to issuing their reports.</p>
Expected timetable	<p>The Acts were passed by the Parliament on 15 September 2011 and received the Royal Assent on 14 October 2011. NOPSEMA and NOPTA will commence on a date to be fixed by proclamation (1 January 2012).</p>
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Date last modified	25 October 2011

Implementation of Offshore Mining Regulatory Reform

Title	Implementation of: <i>Offshore Minerals and Other Legislation Amendment (National Regulator) Bill 2011</i>
Description of issue	This Act: <ul style="list-style-type: none"> • amends the <i>Offshore Minerals Act 1994</i> (OMA) and associated Acts to add minerals titles administration and regulation to the functions of NOPTA and NOPSEMA respectively; • imposes cost-recovery levies on holders of offshore mineral titles in respect of environmental approvals and titles administration under the OMA to fund the regulatory activities of NOPSEMA and NOPTA; • removes the Tasmanian Minister from the Joint Authorities in the OPGGSA and OMA.
Consultation opportunities	Consultation has been undertaken with key stakeholders in relation to the establishment of a national regulator and titles administrator for the offshore petroleum, greenhouse gas storage and minerals industries, in the lead-up to and following introduction of the <i>Offshore Petroleum and Greenhouse Gas Storage Amendment (National Regulator) Bill 2011</i> in the Winter 2011 sittings.
Expected timetable	Finalisation mid 2012
Contact details	Peter Livingston Manager Petroleum Regulatory Reform Resources Division Telephone: 02 6213 7974 Facsimile: 02 6213 6664 Email: peter.livingston@ret.gov.au
Date last modified	25 October 2011

**Offshore Petroleum and Greenhouse Gas Storage
Amendment Regulations to implement petroleum regulatory
reform**

Title	Implementation of Offshore Petroleum and Greenhouse Gas Storage Amendment Regulations
Description of issue	<p>To provide machinery and transitional amendments to the following regulations as a consequence of the National Regulator Act and the establishment of NOPSEMA and NOPTA:</p> <ul style="list-style-type: none"> • <i>Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2009</i> • <i>Offshore Petroleum and Greenhouse Gas Storage (Safety) Regulations 2009</i> • <i>Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2011</i> • <i>Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Regulations 2004</i> <p>To also amend the Environment Regulations to provide:</p> <ul style="list-style-type: none"> • express inclusion of state/NT Mines Departments in consultations to be undertaken by an operator when preparing an environment plan; • prior notification of operations with the potential to affect coastal communities; and • prompt notification of significant environmental incidents.
Consultation opportunities	<p>Consultation has been undertaken with key stakeholders in relation to the establishment of a national regulator and titles administrator for the offshore petroleum, greenhouse gas storage and minerals industries, in the lead-up to and following introduction of the <i>Offshore Petroleum and Greenhouse Gas Storage Amendment (National Regulator) Bill 2011</i> in the Winter 2011 sittings.</p>
Expected timetable	Finalisation end December 2011
Contact details	<p>Peter Livingston Manager Petroleum Regulatory Reform Resources Division Telephone: 02 6213 7974 Facsimile: 02 6213 6664 Email: peter.livingston@ret.gov.au</p>

Date last modified	25 October 2011
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Offshore Mining Amendment Regulations to implement petroleum regulatory reform

Title	Implementation of Offshore Mining Amendment Regulations
Description of issue	To provide machinery and transitional amendments to the following regulations as a consequence of the <i>Offshore Minerals and Other Legislation Amendment (National Regulator) Bill 2011</i> : <ul style="list-style-type: none"> • Offshore Minerals (Data Lodgment and Reporting) Regulations 1996; • Offshore Mineral (Fees) Regulations 1994; and • Offshore Minerals (Ballot Procedures) Regulations 1994.
Consultation opportunities	Consultation has been undertaken with key stakeholders in relation to the establishment of a national regulator and titles administrator for the offshore petroleum, greenhouse gas storage and minerals industries, in the lead-up to and following introduction of the <i>Offshore Petroleum and Greenhouse Gas Storage Amendment (National Regulator) Bill 2011</i> in the Winter 2011 sittings.
Expected timetable	Finalisation mid 2012
Contact details	Peter Livingston Manager Petroleum Regulatory Reform Resources Division Telephone: 02 6213 7974 Facsimile: 02 6213 6664 Email: peter.livingston@ret.gov.au
Date last modified	25 October 2011

Offshore Resources Legislation Amendment (Personal Property Securities) Act 2011

Title	<i>Offshore Resources Legislation Amendment (Personal Property Securities) Act 2011</i>
Description of issue	<p>The <i>Offshore Resources Legislation Amendment (Personal Property Securities) Act 2011</i> amended the <i>Offshore Petroleum and Greenhouse Gas Storage Act 2006</i> (the OPGGSA) and the <i>Offshore Minerals Act 1994</i> (the OMA) to exclude application of the <i>Personal Property Securities Act 2009</i> (the PPS Act) to offshore petroleum, greenhouse gas and minerals titles, and to the various types of rights and interests acquired in those titles. The registration and approval provisions in the OPGGSA and OMA therefore continue to apply to these types of titles.</p> <p>State and Northern Territory governments have advised the Commonwealth, through consultation, that they are electing to opt out of or exclude the operation of the PPS Act for their onshore mining schemes. Therefore excluding application of the PPS Act to the OPGGSA and the OMA ensures consistency between the onshore and offshore mining regimes, and minimises a potential regulatory burden and costs to the mining industry and its investors in complying with different registration requirements, potentially skewing investment between onshore and offshore, and having to keep abreast of developments.</p> <p>In addition, under the registration requirements in the OPGGSA, the applicable regulator has the ability to refuse to approve a dealing in relation to a petroleum or greenhouse gas title. This ability to refuse approval and registration of an interest underpins the purpose of the registration requirement, to enable the Australian Government to ensure the suitability of the entities that potentially are able to exercise control over the exploitation of Australia's offshore petroleum resources. Excluding application of the PPS Act ensures that these important approval requirements continue to apply.</p>
Consultation opportunities	The proposal to exclude operation of the PPS Act was discussed with and endorsed by the former Upstream Petroleum and Geothermal Subcommittee under the former Ministerial Council for Mineral and Petroleum Resources (made up of representatives from the Commonwealth and each State and the NT).
Expected timetable	The Act was passed by the Parliament on 15 September 2011 and received the Royal Assent on 14 October 2011.

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Date last modified	9 November 2011

**Offshore Petroleum and Greenhouse Gas Storage
Amendment (Significant Incident Directions) Bill 2011**

Title	<i>Offshore Petroleum and Greenhouse Gas Storage Amendment (Significant Incident Directions) Bill 2011 (Significant Incident Directions Bill)</i>
Description of issue	<p>The Significant Incident Directions Bill will amend the <i>Offshore Petroleum and Greenhouse Gas Storage Act 2006</i> to specifically enable the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) to issue a direction to a petroleum titleholder in the event of a significant offshore petroleum incident occurring within the title area that has caused, or might cause, an escape of petroleum. The direction would require the titleholder to take an action or not take an action in relation to the escape or possible escape of petroleum and its effects, and may apply either within <u>or outside</u> the titleholder's title area.</p> <p>Following the uncontrolled release of hydrocarbons from the Montara Wellhead Platform in August 2009, it became evident that a clear and specific power is required in the event of a significant offshore petroleum incident to enable the regulator to give directions to a petroleum titleholder in relation to the clean-up or other remediation of the effects of an escape of petroleum, both within <i>and</i> outside the title area.</p> <p>The proposed amendment will help ensure that the Commonwealth has the full ability to provide for remediation of the effects of an escape of petroleum in the event of an oil spill incident, and is one of a number of legislative amendments being introduced to improve the regulation of the offshore petroleum industry following the Montara incident.</p>
Consultation opportunities	The Significant Incident Directions Bill is currently the subject of an inquiry before the House of Representatives Standing Committee on Climate Change, Environment and the Arts. Submissions to the inquiry were due by 28 October 2011.
Expected timetable	The Significant Incident Directions Bill was introduced into the House of Representatives on 21 September 2011. It is anticipated that the Bill will be passed by mid-2012.

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Date last modified	9 November 2011

Offshore Petroleum and Greenhouse Gas Storage Act 2006 (OPGGSA) – miscellaneous amendments

Title	<i>Offshore Petroleum and Greenhouse Gas Storage Act 2006 (OPGGSA) – miscellaneous amendments</i>
Description of issue	<p>A number of legislative changes to the OPGGSA are required including to:</p> <ul style="list-style-type: none"> • Provide the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) with further enforcement powers in the OPGGSA, including the giving of prohibition and improvement notices, in relation to the titleholder OHS duty of care in relation to wells and well-related equipment; • Amend the definition in the OPGGSA of “associated offshore place” to exclude any part of an ordinary marine vessel that is under the command of a Master; • Enable NOPSEMA to board a dive vessel when well-related operations are being carried out for the purpose of inspecting compliance with OHS obligations and issuing enforcement notices; • Extend the circumstances in which NOPSEMA can issue a prohibition notice to include circumstances in which an immediate threat to the health or safety of a person <i>may</i> occur (to implement Recommendation 72 of the Report of the Montara Commission of Inquiry); • Enable NOPSEMA to publish enforcement notices; • Specifically provide for electronic service of documents under the OPGGSA; • Provide offence-related search and seizure powers for petroleum project inspectors under the OPGGSA.
Consultation opportunities	Consultation has already occurred and will continue to occur with relevant Australian Government departments and authorities, including Attorney-General’s and NOPS/NOPSEMA.
Expected timetable	It is anticipated that the proposed amendments will be finalised in the first half of 2012.

Contact details	Jacqui Princi Assistant Manager Legislation Review & Timor Sea Resources Division Telephone: 02 6213 6435 Facsimile: 02 6213 6665 Email: Jacqui.princi@ret.gov.au
Date last modified	9 November 2011

Implementation of the Final Government Response to the Report of the Montara Commission of Inquiry

Title	Government Response to the <i>Report of the Montara Commission of Inquiry</i>
Description of issue	<p>On 25 May 2011, the Minister for Resources and Energy released the Final Government Response to the Report of the Montara Commission of Inquiry. The Government's Final Response accepts 92, notes 10, and does not accept three of the 105 recommendations, and includes an implementation plan for the accepted recommendations.</p> <p>The Government's final response identified an 'Offshore Petroleum and Marine Environment Legislative Review' (Legislative Review), which is giving broader consideration to a number of recommendations which propose legislative amendments to the regulatory regime for offshore petroleum and marine environment (Commonwealth waters). The Legislative Review is being progressed under the auspices of a Better Regulation Ministerial Partnership (the Partnership). Matters being considered include: strengthening and clarifying the polluter pays principle in relevant Commonwealth legislation; development of a rigorous civil penalty regime for the <i>Offshore Petroleum and Greenhouse Gas Storage Act 2006</i> (OPGGS Act) and associated regulations; reviewing the definition of 'good oilfield practice' in the OPGGS Act; development of equitable cost-sharing arrangements between the offshore petroleum and shipping industries for preparedness and response arrangements; and appropriate level and type(s) of engagement between regulators and operators in responding to a well control incident. Reform initiatives, including recommendations for changes to the legislative framework, are to be brought forward to Government by the Partnership for consideration by end June 2012.</p> <p>The following legislative changes to the OPGGS Act also give effect to Montara Commission of Inquiry recommendations:</p> <ul style="list-style-type: none"> • <i>Offshore Petroleum and Greenhouse Gas Storage Amendment (National Regulator) Act 2011</i> and Associated Acts – implementation of offshore petroleum regulatory reform • Amendment to the OPGGS Act to extend prohibition powers for the National Offshore Petroleum Safety and Environmental Management Authority in a separate Bill that is proposed to be introduced in the Autumn 2012 sittings.

<p>Consultation opportunities</p>	<p>Consultation is underway through an interdepartmental committee which includes: Department of Finance and Deregulation; the Department of Sustainability, Environment, Water, Population and Communities; the Department of Infrastructure and Transport; the Australian Maritime Safety Authority; the Department of the Prime Minister and Cabinet; the Treasury; the Department of Foreign Affairs and Trade; Attorney General's Department; the National Offshore Petroleum Safety Authority; and Geoscience Australia.</p> <p>An Issues Paper on the compliance and enforcement regime of the OPGGS Act was released on 4 November 2011 for six weeks consultation and stakeholder submission.</p>
<p>Expected timetable</p>	<p>Legislative Review completed by end June 2012. Any required amendments to the OPGGS Act in late 2012/early-mid 2013.</p>
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Offshore Petroleum and Greenhouse Gas Storage Act 2006 – marine amendments

Title	<i>Offshore Petroleum and Greenhouse Gas Storage Act 2006 – marine amendments</i>
Description of issue	<p>The <i>Offshore Petroleum and Greenhouse Gas Storage Act 2006</i> (OPGGSA) disappplies the <i>Navigation Act 1912</i> in relation to ship-like petroleum facilities.</p> <p>The Productivity Commission <i>Review of Regulatory Burden on the Upstream Petroleum (Oil & Gas) Sector (April 2009)</i> recommended that the Australian Government clarify whether any significant regulatory uncertainty results from the decision to disapply the Navigation Act and, if so, that it should act to remove the uncertainty. This matter was also raised as part of the 2008 <i>Offshore Petroleum Safety Regulation Inquiry</i>. The Montara Wellhead Platform Oil Spill Commission of Inquiry Report and the Australian Transport Safety Bureau (ATSB) report findings on the Karratha Spirit (Safety Investigation Report 26) incident have also commented on this issue.</p> <p>The Minister for Resources and Energy and the Minister for Infrastructure and Transport have agreed the need to amend the OPGGSA and Regulations to require ship-like petroleum facilities to comply substantively with requirements concerning seaworthiness and pollution prevention so that when in a navigable form they comply with relevant international conventions. The amendments will also clarify the transition boundary for vessels moving from the OPGGSA to the Navigation Act.</p>
Consultation opportunities	Consultation has occurred with the Department of Infrastructure and Transport, the Australian Maritime Safety Authority and the National Offshore Petroleum Safety Authority. Industry and other stakeholders will be consulted in February 2012.
Expected timetable	Amendments to the OPGGSA will occur as part of the 2012 Autumn Legislative Process.
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Date last modified	10 November 2010

Technical amendments to the Offshore Petroleum and Greenhouse Gas Storage (Safety) Regulations 2009

Title	Technical amendments to the <i>Offshore Petroleum and Greenhouse Gas Storage (Safety) Regulations 2009</i>
Description of issue	<p>Several technical amendments are required to the <i>Offshore Petroleum and Greenhouse Gas Storage (Safety) Regulations 2009</i> (Safety Regulations). These include amendments to:</p> <ul style="list-style-type: none"> • Ensure that a vessel or structure that is listed in the Safety Regulations for the purpose of excluding it from the definition of “facility” or “associated offshore place” is not so excluded when it is being used for one or more additional purposes that would otherwise bring it within the definition of “facility” or “associated offshore place”; • Require that all facility operators are registered with the Australian Securities and Investment Commission under the <i>Corporations Act 2001</i>, to ensure that originating process can be served on all operators, including foreign company operators; • Allow the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) to reject a safety case if it does not have sufficient reason to believe that the operator’s safety systems comply with the Safety Regulations; • Ensure that only major revisions of a whole safety case will trigger a five-yearly review; • Ensure that a diving project plan may only be approved if the activities listed in the plan are appropriately covered by a single plan.
Consultation opportunities	RET is undertaking on-going consultation with the National Offshore Petroleum Safety Authority (which will become NOPSEMA from 1 January 2012) in relation to these technical amendments.
Expected timetable	It is expected that these amendments will be finalised in early 2012.
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Date last modified	9 November 2011
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Review of the Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2009

Title	Review of the <i>Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2009 (Environment Regulations)</i>
Description of issue	<p>To ensure an effective and efficient regulatory framework for NOPSEMA to regulate the management of potential impacts on the marine environment from offshore petroleum and greenhouse gas storage activities consistent with the principles of ecologically sustainable development.</p> <p>The review of the Environment Regulations includes identification of and consultation on substantive policy issues and may include the topics below:</p> <ul style="list-style-type: none"> • <i>Legislative Powers</i> – responsibilities of title holders/operators; continuous improvement of new and existing facilities; to assess and reject an Oil Spill Contingency Plan aspect of an Environment Plan or insurance requirements; and incident reporting requirements. • <i>Coverage</i> – application of the offshore regulations to petroleum, carbon capture and storage, and mining activities; the balance between regulations and guidelines. • <i>Transparency</i> – potential expansion of requirements for consultation and the disclosure of information. • <i>Consistency</i> – criteria for the acceptance of an Environment Plan; relationship to other approvals e.g. Field Development Plan; reporting of incidents in the <i>Offshore Petroleum and Greenhouse Gas Storage (Safety) Regulations 2009</i>.
Consultation opportunities	RET proposes to initially consult with States/NT, NOPSA/NOSPEMA, SEWPAC, AMSA and DAFF in preparing an Issues Paper including draft regulation change proposals as a basis for detailed consultation. The intention is that this will be followed by a public consultation process including the Australian Petroleum Production and Exploration Association.
Expected timetable	It is expected that the process for the review will commence in early 2012 .

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Date last modified	14 November 2011

Review of Part 5 of the Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2009 – regulations relating to well operations

Title	<i>Review of Part 5 of the Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2009 – regulations relating to well operations</i>
Description of issue	<p>On 29 April 2010, the National Offshore Petroleum Safety Authority (NOPSA) commenced regulatory oversight of non-occupational health and safety-related structural integrity for facilities, wells and well-related equipment (effectively providing NOPSA with regulatory responsibility for the entirety of structural integrity).</p> <p>RET and NOPSA will undertake a review of Part 5 of the <i>Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2011</i> early in 2012, at which time NOPSA will have had over six months of operational experience of well regulations.</p>
Consultation opportunities	Industry consultation will be undertaken as part of the Review process, by the end of April 2012.
Expected timetable	The Review will be finalised by July 2012, with any legislative amendments to be progressed in Spring 2012.
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Date last modified	10 November 2011

National Energy Customer Framework

Title	National Energy Customer Framework (NECF)
Description	<p>The new National Energy Customer Framework (NECF) will harmonise the existing jurisdictional non-economic regimes for the retail and distribution of energy.</p> <p>The NECF will establish requirements and provide guidance on the responsibilities of energy retailers, distributors and customers when engaged in the sale and supply of energy. The NECF will also ensure that strong, uniform customer protections are applied across all participating jurisdictions.</p> <p>Being national energy legislation, the NECF will be implemented through applied law with South Australia (SA) being the lead legislature. The Framework's legislative package was introduced to SA Parliament on 27 October 2010 and received Royal Assent on 17 March 2011.</p> <p>The Australian Government's application Act received Royal Assent on 14 October 2011. Other jurisdictions are expected to pass application Acts in advance of implementation by 1 July 2012.</p>
Consultation opportunities	<p>The NECF has been developed following extensive consultation with stakeholders, including consumer groups, energy ombudsmen and energy retailers and distributors across Australia.</p> <p>The rigorous program of consultation has included more than 6 discrete formal consultation processes where written submissions have been requested from stakeholders. Public forums have also been held and Working Groups have met with stakeholders frequently on an informal basis to discuss concerns and provide feedback on policy positions. Consultation commenced in 2006 with the release of Allens Arthur Robinson working papers and has also included consultation on the Standing Committee of Officials Policy Paper, a Retailer of Last Resort Regime consultancy, the First Exposure Draft, a Regulation Impact Statement and the Second Exposure Draft, released in November 2009.</p> <p>Feedback from these stakeholder groups has been carefully considered and included in aspects of the laws and rules. The final laws and rules strike the right balance to protect energy consumers and reduce regulatory costs for businesses.</p> <p>Each jurisdiction continues to work with their local stakeholders to develop their implementation plans for the Framework, and associated transitional arrangements.</p>
Expected timetable	Jurisdictions will implement the Framework by 1 July 2012
Date last modified	November 2011

Clean Future for Power Stations

Title	Clean Future for Power Stations
Description of issue	<p>On 23 July 2010, the Government released the 'Clean Future for Power Stations' election commitment. It stated that:</p> <p>All new coal-fired power stations would be required to:</p> <ol style="list-style-type: none"> 1) meet best practice carbon emissions standards , commencing in 2011, set with reference to best practice coal-fired power technology; and 2) be Carbon Capture and Storage-ready (CCS-ready). <p>In addition, all existing power stations would be subject to:</p> <ol style="list-style-type: none"> 3) the Energy Efficiency Opportunities Act 2006 and subsequent Regulations, to identify opportunities to reduce their energy use, and report publicly on assessment outcomes (where the 0.5PJ per-year threshold is triggered); and 4) publication of annual facility-level greenhouse gas emissions and electricity production data supplied under the National Greenhouse and Energy Reporting Act 2007, to increase transparency on power station emissions. <p>This legislation is to introduce carbon emissions standards and CCS-ready requirements only (measures 1 and 2).</p>
Consultation opportunities	<p>Three defined consultation opportunities:</p> <ol style="list-style-type: none"> 1) public stakeholder forum events in Melbourne and Perth - to be held in Dec 2010. 2) consultation on the Regulatory Impact Statement for emissions standards and CCS-ready requirements (Feb\March 2011) 3) comments on the exposure draft legislation, (Autumn 2011)
Expected timetable	<p>Initial consultation period and RIS completed by end of Feb 2011. Cabinet process from March 2011, introduction of legislation in Winter 2011 sitting of Parliament.</p> <p>Commencement of legislation by end of 2011.</p>
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Date last modified	14 December 2010