



Australia's Offshore Petroleum Regulatory Framework

Australia's offshore petroleum legislative framework provides for the orderly and safe exploration for, and production of, petroleum resources. It is designed to encourage continuous improvement rather than minimum compliance with a core principle that the operator is responsible for evaluating risk and achieving fit for purpose design that reduces risk to 'as low as reasonably practicable'.

The objective-based regime is not self-regulation. In order to conduct operations a proponent must demonstrate to regulators - and regulators must assess and approve or not approve - that it has reduced the risks of an incident occurring to as low as reasonably practicable.

Offshore petroleum operations beyond the designated state and territory coastal waters (three nautical mile baseline to 200 nautical miles of Australia's Exclusive Economic Zone) are governed by the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* and related regulations. An electronic compendium of all current legislation, regulations and guidelines can be found at:

http://www.ret.gov.au/resources/upstream_petroleum/offshore_petroleum_regulation_and_legislation/offshore_petroleum_legislation_regulation_and_guidelines/Pages/OffshorePetroleumLegislationRegulationandGuidelines.aspx

While ultimate responsibility for Australia's offshore areas beyond the three nautical miles from the territorial baseline rests with the Commonwealth, the offshore petroleum legislative regime is a co-operative regime. In this regard, the Australian Government jointly administers the regime with the State and Northern Territory governments through a Joint Authority/Designated Authority arrangement. The State and Northern Territory governments have exclusive responsibility for petroleum operations in island and coastal waters within three nautical miles of the coastline.

The Government's proposal for the establishment of a single national petroleum and greenhouse gas regulator will see the proposed National Offshore Petroleum Safety and Environment Management Authority (NOPSEMA) become the regulator for all offshore petroleum and greenhouse gas activities beyond three nautical miles from the territorial sea baseline. This proposal is consistent with the recommendations in the Report of the Montara Commission of Inquiry and builds upon a recommendation from the Productivity Commission.

The Regulatory Framework

The Joint Authority (JA) comprises the responsible Commonwealth Minister and the relevant state/territory minister (usually the Resources Minister), or their delegates. The JA's key functions and powers include the release of offshore exploration acreages; assessment of bids for these areas; granting (or refusal) and renewal of offshore petroleum titles; variations of title conditions; suspension and extension to title terms; and cancellation of titles.

Day-to-day regulation of offshore petroleum operations, including receiving reports and applications; providing advice to titleholders of decisions made under the Act, collecting fees; declaring safety zones; granting Access and Special Prospecting Authorities; and approving transfers and dealings, is vested in the Designated Authority (DA). The DA is invariably the delegate of the responsible state/territory minister.

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Managing the Environment

Commonwealth, state and territory governments require petroleum companies to conduct their activities in a manner that meets a high standard of environmental protection.

The *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (the 'OPGGS Act') contains a broad requirement for titleholders to operate in accordance with 'good oil field practice'. Specific environmental provisions relating to work practices require operators to control and prevent the escape of wastes and petroleum. The OPGGS Act also requires activities to be carried out in a manner that does not interfere with other rights, including the conservation of the resources of the sea and seabed.

The objectives of the *Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2009* include:

- encouraging industry to continuously improve its environmental performance;
- to adopt best practice to achieve agreed environment protection standards in industry operations; and
- to ensure operations are carried out in a way that is consistent with the principles of ecologically sustainable development.

In addition, Australia's national environment law, the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), also plays a key role in the regulation of offshore petroleum activities. The EPBC Act establishes a national approach to the protection and conservation of Australia's environment, and sets out a regulatory framework to protect those aspects of the environment considered to be matters of national environmental significance (NES), which includes the Commonwealth marine area.

Offshore petroleum activities that are likely to significantly impact NES matters require assessment under the EPBC Act and approval by the Federal Environment Minister. The Environment Minister may attach conditions to an approval to protect, repair or mitigate damage to NES matters. The EPBC Act includes a wide range of coercive powers as well as criminal, civil and administrative sanctions for breaches of the Act.

Occupational Health and Safety

The occupational health and safety (OH&S) legislative regime for the offshore petroleum industry is administered by the National Offshore Petroleum Safety Authority (NOPSA). Established on 1 January 2005 under the OPGGS Act, NOPSA is a Statutory Agency regulating Commonwealth, State and Territory waters.

NOPSA's role is to administer the offshore petroleum safety legislation and its functions include:

- The promotion of OH&S;
- The monitoring and enforcement of compliance with the OH&S obligations under the OPGGS Act and regulations;
- To investigate and report on accidents, occurrences and circumstances that affect or have the potential to affect the OH&S of persons engaged in offshore petroleum operations;
- To provide advice on OH&S matters; and
- To cooperate with government agencies and the Designated Authorities.



NOPSA discharges these legislative functions and provides independent assurance that health and safety risks are properly controlled, by challenging the operator's risk management arrangements during safety case assessment and then verifying by planned inspection that the operator has implemented its risk management commitments documented in the safety case.