



Commonwealth laws on Carbon Capture and Storage

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What is this factsheet about?

This factsheet outlines how our Commonwealth laws on carbon capture and storage (**CCS**) activities in offshore Commonwealth waters work together to regulate the exploration, injection and long-term storage of carbon dioxide. It also explains how you can engage with each stage of the assessment process.

Outline

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Overview

In Australia, there are three main Commonwealth laws regulating CCS activities in Commonwealth waters:

1. *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (Cth) (**OPGGGS Act**)
2. *Environment Protection (Sea Dumping) Act 1981* (Cth) (**Sea Dumping Act**)
3. *Environmental Protection and Biodiversity Conservation Act 1999* (Cth) (**EPBC Act**)

Commonwealth waters are located more than three nautical miles from the shore, extending to the boundary of Australia’s exclusive economic zone.¹

There are three bodies regulating offshore CCS projects:

1. National Offshore Petroleum Titles Administrator (**NOPTA**)
2. National Offshore Petroleum Safety and Environmental Management Authority (**NOPSEMA**)
3. Environment Regulation Division in the Department of Climate Change, Energy the Environment and Water (**DCCEEW**)

The Responsible Commonwealth Minister (**RCM**) under the OPGGS Act is currently the Minister for Resources and Northern Australia.²

NOPTA is responsible for administering and assessing greenhouse gas titles.

NOPSEMA is an independent agency responsible for regulating certain aspects of offshore petroleum activities in Commonwealth waters, including health and safety, environmental management and well integrity.

The Environment Regulation Division is involved in regulation under the EPBC Act and the Sea Dumping Act.³

N.B. This factsheet focuses on Commonwealth waters; CCS activities in State or Territory waters are briefly addressed but may require additional approvals

Commonwealth laws regulating CCS

1. *Offshore Petroleum and Greenhouse Gas Storage Act 2006 (Cth)*

The OPGGS Act is the primary law for regulating CCS in Commonwealth offshore areas. The Act provides a title-based system for authorising each stage of a CCS project, from exploration to injection and post-closure monitoring, and is supported by regulations governing safety, well integrity and environmental management.

Under the OPGGS Act, several greenhouse gas titles are assessed and issued including the following:

Title	Purpose	Assessment	Issuing Authority
Greenhouse Gas Assessment Permit	Authorises exploration and appraisal of geological formations	NOPTA	Responsible Commonwealth Minister (RCM)

¹ OPGGS Act, s 8 – Definition of ‘offshore areas’

² At the time of writing, the Responsible Commonwealth Minister is Madeleine King MP.

³ DCCEEW Portfolios <https://www.directory.gov.au/portfolios/climate-change-energy-environment-and-water/department-climate-change-energy-environment-and-water/environmental-regulation-and-heritage-parry-group/environment-regulation>

	to determine storage suitability		
Greenhouse Gas Holding Lease	Allows the holder to retain rights over a formation found suitable for storage but not yet ready for injection	NOPTA	Responsible Commonwealth Minister (RCM) ⁴
Greenhouse Gas Injection Licence	Grants the right to inject and store CO ₂ in a declared storage formation	NOPTA, subject to NOPSEMA environmental authorisation	Responsible Commonwealth Minister (RCM) ⁵
Greenhouse Gas Search Authority / Special Authority	Enables limited activities such as surveys or data collection.	NOPTA	Responsible Commonwealth Minister (RCM) ⁶
Pipeline Licence	Authorises titleholders to construct and operate a pipeline for transportation of a GHG substance (CO ₂).	NOPTA	Joint Authority ⁷
Infrastructure Licence	Authorises titleholders to construct and operate an infrastructure facility (e.g. floating LNG)	NOPTA	Joint Authority ⁸

2. Environment Protection (Sea Dumping) Act 1981

The Sea Dumping Act implements Australia's obligations under the London Protocol⁹ to prevent marine pollution from dumping of wastes and other matter at sea. Sub-seabed disposal or injection of carbon dioxide streams for permanent storage is treated as "dumping" of a controlled material under the Act.

Companies wanting to dispose of CO₂ in Australian waters by offshore CCS must obtain a **Sea Dumping Permit** from the Minister for the Environment. The Minister may issue a permit if satisfied the disposal complies with environmental criteria set out in the London Protocol and its Specific Guidelines for the Assessment of CO₂ Streams. Permit applications must include details of the CO₂ composition, proposed storage

⁴ *OPGGs Act*, ss 320-321A.

⁵ *Ibid* s 358.

⁶ *Ibid* ss 404 and 413.

⁷ *Ibid* s 212.

⁸ *Ibid* s 195.

⁹ *1996 Protocol to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972*

site, monitoring and verification plans, risk assessments, and duration of storage. The permit outlines conditions for monitoring and reporting during and after injection.

Read: The [London Protocol](#) and the [Specific Guidelines for the Assessment of CO₂ Streams](#)

3. Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act)

The EPBC Act is Australia’s main environment legislation, protecting matters of national environmental significance (**MNES**) such as threatened species, World Heritage Properties and Commonwealth Marine Areas. Offshore CCS projects may require approval under the EPBC Act if they are likely to have a significant impact on an MNES. Normally, proponents must refer these actions to the federal Environment Minister for assessment and approval. You can also write to the Minister requesting a project be ‘called-in’ for assessment under the EPBC Act.

The Minister for Environment has endorsed the NOPSEMA process for assessing oil and gas activities and CCS exploration and appraisal under Part 10 of the EPBC Act, however this does not apply to CCS injection and storage activities.

Read: The EDO’s [Factsheet](#) on EPBC Act referrals

Stages and approvals for CCS activities in Commonwealth waters

CCS related activities

Before any CCS related activities can occur, titleholders must obtain NOPSEMA acceptance of an Environment Plan (**EP**) and,¹⁰ for larger projects, an Offshore Project Proposal (**OPP**) under the *Offshore Petroleum Greenhouse Gas Storage (Environment) Regulations 2023* (Cth) (**OPGGS Environment Regulations**).¹¹ Proponents must demonstrate in these documents that environmental impacts and risks will be reduced to “as low as reasonably practicable” (**ALARP**) and comply with environmental performance outcomes.¹² NOPSEMA’s decision to accept an EP or OPP legally authorises the environmental component of a CCS operation.

Well activity

A titleholder must also submit a Well Operations Management Plan (**WOMP**) for NOPSEMA’s approval under the *Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2025* (Cth) (**OPGGS RMA Regulations**) before

¹⁰ *OPGGS Environment Regulations*, reg 17.

¹¹ *Ibid* reg 6.

¹² *Ibid* regs 7(2); 21(5)-(7).

carrying out any activity on a well.¹³ A WOMP will be approved if it meets the criteria set out in the regulations. The proponent must demonstrate the risks to the integrity of the well have been reduced to ALARP.¹⁴

Injection

Before injection can occur, the Minister for Resources and Northern Australia may declare a geological formation as a 'Greenhouse Gas Storage Formation' under the *OPGGS Act*.¹⁵ This declaration is a statutory pre-condition to issuing an injection licence.¹⁶ It confirms the formation is suitable for safe, permanent containment of greenhouse gases.

Site closure

Lastly, after an injection has taken place, the titleholder must undertake monitoring and verification until the Minister is satisfied the storage site is stable.¹⁷ A site closing certificate can then be issued, after which long-term monitoring or liability may transfer to the Commonwealth under prescribed conditions.¹⁸

Read: The Commonwealth Government's [Guidance on Offshore Carbon Capture and Storage Regulatory Approvals](#) for more information on the approval processes for CCS related activities

Your right to comment

Offshore Project Proposals

You have the right to comment on offshore project proposals under the *OPGGS Environment Regulations*.¹⁹ Offshore project proposals must be submitted to NOPSEMA before commencing any offshore projects,²⁰ unless the Environment Minister has considered a referral that is equivalent to or includes the action and made a decision that the action:²¹

- (a) is not a controlled action
- (b) is not a controlled action because it will be taken in a particular manner
- (c) be approved

¹³ *OPGGS RMA Regulations*, regs 76 and 78.

¹⁴ *Ibid* reg 82(4).

¹⁵ *OPGGS Act*, ss 312 and 312 A.

¹⁶ *Ibid* ss 358 and 358A.

¹⁷ *Ibid* s 386.

¹⁸ *Ibid* ss 388 and 392.

¹⁹ *OPGGS Environment Regulations*, reg 9(5)(b)

²⁰ *Ibid* reg 6(1).

²¹ *Ibid* reg 6(2).

If NOPSEMA decide the proposal is suitable for publication, it must publish the proposal and a notice on its website inviting you to make written comments on the proposal.²² You will have at least four weeks to provide your comments.²³

Read: EDO's factsheet on [Offshore Project Proposals](#)

Exploration Environment Plans

Anyone can comment on an exploration environment plan once it is published on NOPSEMA's website.²⁴ The public comment period is open for 30 days.²⁵ By law, NOPSEMA is required to consider these public comments when deciding whether or not to accept an environment plan.²⁶

Read: [EDO's factsheet on Commenting on and challenging an Environment Plan](#) that explains the public comment consultation process and how to write an effective submission.

Environment Plans

If you are a 'relevant person' you have the right to comment on environment plans under the OPGGS (Environment) Regulations.²⁷ The Regulations lists 'relevant persons' as including certain Commonwealth and State and Territory government departments and people or organisations whose functions, interests or activities may be affected by the proposed activity.

Read: [EDO's factsheet on How to get involved as a 'relevant person'](#) that explains the law on relevant persons and consultation process

EPBC Act referrals

You have a right to comment on projects that are referred to the Environment Minister under the EPBC Act.

Read: The EDO [factsheet](#) on EPBC Act referrals

Visit: EPBC Act [Public Portal](#) to check for any relevant referrals

Read: EPBC Act [Guide](#) on how to make a public comment

²² Ibid reg 9(5)(a) and (b).

²³ Ibid reg 9(5)(b)(ii).

²⁴ Ibid reg 30

²⁵ Ibid reg 30(1).

²⁶ Ibid reg 30(6).

²⁷ Ibid reg 25.

Your right to challenge

Judicial Review

Who can challenge?

If you are an aggrieved person (that is, your interests are affected by a decision) you can challenge ministerial and governmental decisions in the Federal Court of Australia (**Federal Court**). This type of challenge is called judicial review, and it is only available if there is a legal error in the decision-making process.

What is a legal error?

A legal error occurs where the decision maker:

- did not have the power to make the decision
- did not obey all aspects of the law in making the decision
- did not consider everything that was legally relevant.

A judicial review does not re-consider the facts of the matter or focus on whether the decision was correct.

If NOPSEMA accepts an environment plan that doesn't address all the information that is required under the law, the Court *may* consider this to be a legal error.

Is there a deadline?

If you think there may be grounds to challenge a decision, you should seek legal advice as soon as you're made aware of the decision. Once NOPSEMA publishes the decision or provides a statement of reasons, you have 28 days to file an application for judicial review.

N.B

Judicial review is a complex process, involving tight timeframes and significant resources and costs. You should seek legal advice to determine whether you have grounds to challenge a decision and any risks associated with challenging a decision in Court.

Onshore and State regimes

CCS activities in state and territory jurisdiction (onshore and in coastal waters) are governed by corresponding state greenhouse gas storage legislation, such as:

- *Greenhouse Gas Geological Sequestration Act 2008 (Vic)*
- *Greenhouse Gas Storage Act 2009 (Qld)*
- *Petroleum and Geothermal Energy Act 2000 (SA)*
- *Petroleum Legislation Amendment Act 2024 (WA)*
- *Environment Protection Act 2019 (NT)*

These laws establish similar title systems (exploration permits, injection licences, retention leases) and require separate environmental approvals under state environmental and planning laws. Onshore CCS projects may also participate in the *Carbon Credits (Carbon Farming Initiative) Act 2011* framework to generate Australian Carbon Credit Units (ACCUs), regulated by the Clean Energy Regulator.

CCS activities will also likely require a development permit and environmental approvals under state planning and environmental laws and may be subject to pollution controls under waste management and pollution laws.

Evaluate this resource

EDO welcomes feedback on this legal resource. Your feedback will help us ensure we are providing useful legal information.

If you have any concerns or suggestions regarding this legal resource, please fill out the Legal Resources evaluation form by clicking [here](#) or scanning the QR code below:

