(1) **Opp (1) [Sheet 5620 Revised]**

Schedule 1, page 7 (after line 3), after item 10, insert:

**10A Section 6**

Insert:

*closure assurance period* has the meaning given by section 249CZN.

(2) **Govt (1) [Sheet PN302]**

Schedule 1, item 81, page 22 (line 21), at the end of the definition of *significant risk*, add “, 15FA, 15FB, 15FC or 15FD”.

(3) **Govt (2) [Sheet PN302]**

Schedule 1, item 109, page 36 (line 23) to page 38 (line 7), omit section 15F; substitute:

**15F Significant risk of a significant adverse impact—approval of key petroleum operations**

(1) For the purposes of sections 79A, 79B, 114A, 114B, 138A and 138B and paragraph 435B(2)(a), the question of whether there is a significant risk that a key petroleum operation will have a significant adverse impact on:

(a) operations for the injection of a greenhouse gas substance; or

(b) operations for the storage of a greenhouse gas substance;

is to be determined in a manner ascertained in accordance with the regulations.

(2) A manner ascertained in accordance with regulations made for the purposes of subsection (1) must take into account:

(a) the probability, or range of probabilities, of the occurrence of the adverse impact; and

(b) the economic consequences of the adverse impact; and
(c) the economic consequences of the adverse impact relative to the potential economic value of the operations referred to in whichever of paragraph (1)(a) or (b) is applicable.

(3) Subsection (2) does not limit the matters that may be taken into account.

(4) Subsections (1) and (2) have effect subject to subsections (5) and (6).

(5) For the purposes of sections 79A, 79B, 114A, 114B, 138A and 138B and paragraph 435B(2)(a), a key petroleum operation will have an adverse impact on:
   (a) operations for the injection of a greenhouse gas substance; or
   (b) operations for the storage of a greenhouse gas substance;
   (the relevant greenhouse gas operations) if, and only if, the key petroleum operation will result in:
   (c) an increase in the capital costs (other than prescribed costs) of the relevant greenhouse gas operations; or
   (d) an increase in the operating costs (other than prescribed costs) of the relevant greenhouse gas operations; or
   (e) a reduction in the rate of injection of the greenhouse gas substance; or
   (f) a reduction in the quantity of the greenhouse gas substance that will be able to be stored.

(6) For the purposes of sections 79A, 79B, 114A, 114B, 138A and 138B and paragraph 435B(2)(a), if there is a risk that a key petroleum operation will have an adverse impact on:
   (a) operations for the injection of a greenhouse gas substance; or
   (b) operations for the storage of a greenhouse gas substance;
then that risk is not to be treated as significant, and that adverse impact is not to be treated as significant, if the amount that, under the regulations, is taken to be the probability-weighted impact cost of the key petroleum operation is less than the amount that, under the regulations, is taken to be the threshold amount.

15FA Significant risk of a significant adverse impact—grant of production licence

(1) For the purposes of sections 145 and 146, the question of whether there is a significant risk that any of the operations that could be carried on under a production licence will have a significant adverse impact on operations that are being, or could be, carried on under:
   (a) a greenhouse gas assessment permit; or
   (b) a greenhouse gas holding lease; or
   (c) a greenhouse gas injection licence;
is to be determined in a manner ascertained in accordance with the regulations.

(2) A manner ascertained in accordance with regulations made for the purposes of subsection (1) must take into account:
   (a) the probability, or range of probabilities, of the occurrence of the adverse impact; and
   (b) the economic consequences of the adverse impact; and
   (c) the economic consequences of the adverse impact relative to the potential economic value of the operations that are being, or could be, carried on under the permit, lease or licence referred to in whichever of paragraph (1)(a), (b) or (c) is applicable.

(3) Subsection (2) does not limit the matters that may be taken into account.
(4) Subsections (1) and (2) have effect subject to subsections (5) and (6).

(5) For the purposes of sections 145 and 146, an operation that could be carried on under a production licence (the production licence operation) will have an adverse impact on operations (the relevant greenhouse gas operations) that are being, or could be, carried on under:
   (a) a greenhouse gas assessment permit; or
   (b) a greenhouse gas holding lease; or
   (c) a greenhouse gas injection licence;
if, and only if, the production licence operation will result in:
   (d) an increase in the capital costs (other than prescribed costs) of the relevant greenhouse gas operations; or
   (e) an increase in the operating costs (other than prescribed costs) of the relevant greenhouse gas operations; or
   (f) a reduction in the rate of injection of the greenhouse gas substance; or
   (g) a reduction in the quantity of the greenhouse gas substance that will be able to be stored.

(6) For the purposes of sections 145 and 146, if there is a risk that an operation that could be carried on under a production licence (the production licence operation) will have an adverse impact on operations that are being, or could be, carried on under:
   (a) a greenhouse gas assessment permit; or
   (b) a greenhouse gas holding lease; or
   (c) a greenhouse gas injection licence;
then that risk is not to be treated as significant, and that adverse impact is not to be treated as significant, if the amount that, under the regulations, is taken to be the probability-weighted impact cost of the production licence operation is less than the amount that, under the regulations, is taken to be the threshold amount.

15FB Significant risk of a significant adverse impact—approval of key greenhouse gas operations

(1) For the purposes of sections 249AF and 249BD and paragraph 435B(2)(b), the question of whether there is a significant risk that a key greenhouse gas operation will have a significant adverse impact on petroleum exploration operations, or petroleum recovery operations, that are being, or could be, carried on under:
   (a) an existing exploration permit; or
   (b) an existing retention lease; or
   (c) an existing production licence; or
   (d) a future exploration permit; or
   (e) a future retention lease; or
   (f) a future production licence;
is to be determined in a manner ascertained in accordance with the regulations.

(2) A manner ascertained in accordance with regulations made for the purposes of subsection (1) must take into account:
   (a) the probability, or range of probabilities, of the occurrence of the adverse impact; and
   (b) the economic consequences of the adverse impact; and
(c) the economic consequences of the adverse impact relative to the potential economic value of the petroleum exploration operations, or petroleum recovery operations, that are being, or could be, carried on under the permit, lease or licence referred to in whichever of paragraph (1)(a), (b), (c), (d), (e) or (f) is applicable.

(3) Subsection (2) does not limit the matters that may be taken into account.

(4) Subsections (1) and (2) have effect subject to subsections (5) and (6).

(5) For the purposes of sections 249AF and 249BD and paragraph 435B(2)(b), a key greenhouse gas operation will have an adverse impact on petroleum exploration operations, or petroleum recovery operations, that are being, or could be, carried on under:

(a) an existing exploration permit; or
(b) an existing retention lease; or
(c) an existing production licence; or
(d) a future exploration permit; or
(e) a future retention lease; or
(f) a future production licence;

if, and only if, the key greenhouse gas operation will result in:

(g) an increase in the capital costs (other than prescribed costs) of the petroleum exploration operations or petroleum recovery operations; or
(h) an increase in the operating costs (other than prescribed costs) of the petroleum exploration operations or petroleum recovery operations; or
(i) a reduction in the rate of recovery of the petroleum; or
(j) a reduction in the quantity of the petroleum that will be able to be recovered.

(6) For the purposes of sections 249AF and 249BD and paragraph 435B(2)(b), if there is a risk that a key greenhouse gas operation will have an adverse impact on petroleum exploration operations, or petroleum recovery operations, that are being, or could be, carried on under:

(a) an existing exploration permit; or
(b) an existing retention lease; or
(c) an existing production licence; or
(d) a future exploration permit; or
(e) a future retention lease; or
(f) a future production licence;

then that risk is not to be treated as significant, and that adverse impact is not to be treated as significant, if the amount that, under the regulations, is taken to be the probability-weighted impact cost of the key greenhouse gas operation is less than the amount that, under the regulations, is taken to be the threshold amount.

15FC Significant risk of a significant adverse impact—grant of greenhouse gas injection licence

(1) For the purposes of sections 249CI and 249CR and paragraph 435B(2)(c), the question of whether there is a significant risk that any of the operations that could be carried on under a greenhouse gas injection licence will have a significant adverse impact on operations that are being, or could be, carried on under:

(a) an existing exploration permit; or
(b) an existing retention lease; or
(c) an existing production licence; or
(d) a future exploration permit; or
(e) a future retention lease; or
(f) a future production licence;
is to be determined in a manner ascertained in accordance with the regulations.

(2) A manner ascertained in accordance with regulations made for the purposes of subsection (1) must take into account:

(a) the probability, or range of probabilities, of the occurrence of the adverse impact; and
(b) the economic consequences of the adverse impact; and
(c) the economic consequences of the adverse impact relative to the potential economic value of the operations that are being, or could be, carried on under the permit, lease or licence referred to in whichever of paragraph (1)(a), (b), (c), (d), (e) or (f) is applicable.

(3) Subsection (2) does not limit the matters that may be taken into account.

(4) Subsections (1) and (2) have effect subject to subsections (5) and (6).

(5) For the purposes of sections 249CI and 249CR and paragraph 435B(2)(c), an operation that could be carried on under a greenhouse gas injection licence (the injection licence operation) will have an adverse impact on operations (the relevant petroleum operations) that are being, or could be, carried on under:

(a) an existing exploration permit; or
(b) an existing retention lease; or
(c) an existing production licence; or
(d) a future exploration permit; or
(e) a future retention lease; or
(f) a future production licence;
if, and only if, the injection licence operation will result in:

(g) an increase in the capital costs (other than prescribed costs) of the relevant petroleum operations; or
(h) an increase in the operating costs (other than prescribed costs) of the relevant petroleum operations; or
(i) a reduction in the rate of recovery of the petroleum; or
(j) a reduction in the quantity of the petroleum that will be able to be recovered.

(6) For the purposes of sections 249CI and 249CR and paragraph 435B(2)(c), if there is a risk that an operation that could be carried on under a greenhouse gas injection licence (the injection licence operation) will have an adverse impact on operations that are being, or could be, carried on under:

(a) an existing exploration permit; or
(b) an existing retention lease; or
(c) an existing production licence; or
(d) a future exploration permit; or
(e) a future retention lease; or
(f) a future production licence;
then that risk is not to be treated as significant, and that adverse impact is not to be treated as significant, if the amount that, under the regulations, is taken to be the probability-weighted impact cost of the injection licence operation is less than the amount that, under the regulations, is taken to be the threshold amount.
Significant risk of a significant adverse impact—power of responsible Commonwealth Minister to protect petroleum

(1) For the purposes of section 249CZC and paragraph 435B(2)(d), the question of whether there is a significant risk that any of the operations that are being, or could be, carried on under a greenhouse gas injection licence will have a significant adverse impact on:
   (a) operations to recover petroleum; or
   (b) the commercial viability of the recovery of petroleum;
   is to be determined in a manner ascertained in accordance with the regulations.

(2) A manner ascertained in accordance with regulations made for the purposes of subsection (1) must take into account:
   (a) the probability, or range of probabilities, of the occurrence of the adverse impact; and
   (b) the economic consequences of the adverse impact; and
   (c) the economic consequences of the adverse impact relative to the potential economic value of the operations or recovery referred to in whichever of paragraph (1)(a) or (b) is applicable.

(3) Subsection (2) does not limit the matters that may be taken into account.

(4) Subsections (1) and (2) have effect subject to subsections (5) and (6).

(5) For the purposes of section 249CZC and paragraph 435B(2)(d), an operation that could be carried on under a greenhouse gas injection licence (the injection licence operation) will have an adverse impact on:
   (a) operations to recover petroleum; or
   (b) the commercial viability of the recovery of petroleum;
   if, and only if, the injection licence operation will result in:
   (c) an increase in the capital costs (other than prescribed costs) of the recovery of the petroleum; or
   (d) an increase in the operating costs (other than prescribed costs) of the recovery of the petroleum; or
   (e) a reduction in the rate of recovery of the petroleum; or
   (f) a reduction in the quantity of the petroleum that will be able to be recovered.

(6) For the purposes of section 249CZC and paragraph 435B(2)(d), if there is a risk that an operation that is being, or could be, carried on under a greenhouse gas injection licence (the injection licence operation) will have an adverse impact on:
   (a) operations to recover petroleum; or
   (b) the commercial viability of the recovery of petroleum;
   then that risk is not to be treated as significant, and that adverse impact is not to be treated as significant, if the amount that, under the regulations, is taken to be the probability-weighted impact cost of the injection licence operation is less than the amount that, under the regulations, is taken to be the threshold amount.
Schedule 1, item 169, page 103 (after line 32), after section 249AJ, insert:

**249AJA  Retention lessee or production licensee to be notified of proposal to advertise blocks**

*Scope*

(1) This section applies if:

- the responsible Commonwealth Minister proposes to publish a notice under subsection 249AJ(1) specifying a block that is the subject of a retention lease or production licence; and
- at the time of the proposal, the lessee or licensee is entitled to make an application for the grant of a greenhouse gas holding lease over the block.

*Notification*

(2) The responsible Commonwealth Minister must, at least 60 days before the proposed publication of the subsection 249AJ(1) notice, notify the lessee or licensee of the proposed publication.

*Deferral of publication of notice*

(3) If, during the period:

- beginning when the lessee or licensee is given the notification under subsection (2); and
- ending at the end of the day of proposed publication of the subsection 249AJ(1) notice;

the lessee or licensee makes such an application, the responsible Commonwealth Minister must not publish the subsection 249AJ(1) notice until:

- the application lapses; or
- the lessee withdraws the application; or
- the responsible Commonwealth Minister refuses to grant the greenhouse gas holding lease or greenhouse gas injection licence.

(5) **Opp (3) [Sheet 5620 Revised]**

Schedule 1, item 169, page 104 (after line 21), at the end of section 249AK, add:

*Decision must be made within 12 months*

(3) The responsible Commonwealth Minister must make a decision under subsection (2) within 12 months after the end of the period specified in the relevant notice under subsection 249AJ(1).
Schedule 1, item 169, page 111 (after line 12), after section 249AP, insert:

**249APA Retention lessee or production licensee to be notified of proposal to advertise blocks**

*Scope*

(1) This section applies if:

(a) the responsible Commonwealth Minister proposes to publish a notice under subsection 249AP(1) specifying a block that is the subject of a retention lease or production licence; and

(b) at the time of the proposal, the lessee or licensee is entitled to make an application for the grant of a greenhouse gas holding lease or a greenhouse gas injection licence over the block.

*Notification*

(2) The responsible Commonwealth Minister must, at least 60 days before the proposed publication of the subsection 249AP(1) notice, notify the lessee or licensee of the proposed publication.

*Deferral of publication of notice*

(3) If, during the period:

(a) beginning when the lessee or licensee is given the notification under subsection (2); and

(b) ending at the end of the day of proposed publication of the subsection 249AP(1) notice;

the lessee or licensee makes such an application, the responsible Commonwealth Minister must not publish the subsection 249AP(1) notice until:

(c) the application lapses; or

(d) the lessee withdraws the application; or

(e) the responsible Commonwealth Minister refuses to grant the greenhouse gas holding lease or greenhouse gas injection licence.

Schedule 1, item 169, page 189 (lines 30 to 34), omit paragraph 249CR(c), substitute:

(c) either:

(i) the responsible Commonwealth Minister is satisfied that all of the greenhouse gas substance injected into the identified greenhouse gas storage formation or formations concerned will be obtained as a by-product of petroleum recovery operations carried on under the production licence; or

(ii) the responsible Commonwealth Minister is satisfied that some or all of the greenhouse gas substance injected into the identified greenhouse gas storage formation or formations concerned will be obtained as a by-product of petroleum recovery operations carried on under any production licence, and that the grant of the greenhouse gas injection licence is in the public interest; and
(8) **Opp (6) [Sheet 5620 Revised]**

Schedule 1, item 169, page 219 (lines 13 and 14), omit subsection 249CZF(8), substitute:

*Decision must be made within 5 years*

(8) If an application for a site closing certificate has been made under section 249CZE, the responsible Commonwealth Minister must make a decision on the application within 5 years after the application was made.

(9) **Opp (7) [Sheet 5620 Revised]**

Schedule 1, item 169, page 219 (lines 15 to 22), omit section 249CZFA.

(10) **Opp (8) [Sheet 5620 Revised]**

Schedule 1, item 169, page 219 (before line 23), before section 249CZG, insert:

**249CZFB Acknowledgement of receipt of application for site closing certificate**

*Scope*

(1) This section applies if an application has been made under section 249CZE for a site closing certificate.

*Acknowledgement of receipt of application*

(2) The responsible Commonwealth Minister must give the applicant notice of receipt of the application.

(11) **Opp (9) [Sheet 5620 Revised]**

Schedule 1, item 169, page 223 (after line 16), at the end of Part 2A.4, add:

**Division 8—Long-term liabilities**

**249CZN Closure assurance period**

(1) If:

(a) a site closing certificate is in force in relation to an identified greenhouse gas storage formation; and

(b) the responsible Commonwealth Minister is satisfied that operations for the injection of a greenhouse gas substance into the formation ceased on a day (the *cessation day*) before the application for the site closing certificate was made; and

(c) on a day (the *decision day*) that is at least 15 years after the issue of the site closing certificate, the responsible Commonwealth Minister is satisfied that:

(i) the greenhouse gas substance injected into the formation is behaving as predicted in Part A of the approved site plan for the formation; and

(ii) there is no significant risk that a greenhouse gas substance injected into the formation will have a significant adverse impact on the geotechnical integrity of the whole or a part of a geological formation or geological structure; and
(iii) there is no significant risk that a greenhouse gas substance injected into the formation will have a significant adverse impact on the environment; and
(iv) there is no significant risk that a greenhouse gas substance injected into the formation will have a significant adverse impact on human health or safety; and
(v) since the cessation day, there have not been any operations for the injection of a greenhouse gas substance into the formation;

the responsible Commonwealth Minister may, by writing, declare that the period:
(d) beginning at the end of the cessation day; and
(e) ending at the end of the decision day;

is the closure assurance period in relation to the formation for the purposes of this Act.

(2) A copy of a declaration under subsection (1) is to be given to the holder of the site closing certificate.

249CZO Indemnity—long-term liability

Scope

(1) This section applies if:
(a) a site closing certificate is in force in relation to an identified greenhouse gas storage formation; and
(b) when the application for the certificate was made, the formation was specified in a greenhouse gas injection licence; and
(c) there is a closure assurance period in relation to the formation; and
(d) the following conditions are satisfied in relation to a liability of an existing person who is or has been the registered holder of the licence (whether or not the licence is in force):
(i) the liability is a liability for damages;
(ii) the liability is attributable to an act done or omitted to be done in the carrying out of operations authorised by the licence in relation to the formation;
(iii) the liability is incurred or accrued after the end of the closure assurance period in relation to the formation;
(iv) such other conditions (if any) as are specified in the regulations.

Indemnity

(2) The Commonwealth must indemnify the person against the liability.

249CZP Commonwealth to assume long-term liability if licensee has ceased to exist

Scope

(1) This section applies if:
(a) a site closing certificate is in force in relation to an identified greenhouse gas storage formation; and
(b) when the application for the certificate was made, the formation was specified in a greenhouse gas injection licence; and
(c) there is a closure assurance period in relation to the formation; and
(d) a person who has been the registered holder of the licence (whether or not the licence is in force) has ceased to exist; and
(c) if the person had continued in existence, the following conditions would have been satisfied in relation to a liability of the person:
   (i) the liability is a liability for damages;
   (ii) the liability is attributable to an act done or omitted to be done in the carrying out of operations authorised by the licence in relation to the formation;
   (iii) the liability is incurred or accrued after the end of the closure assurance period in relation to the formation;
   (iv) such other conditions (if any) as are specified in the regulations; and

(f) apart from this section, the damages are irrecoverable because the person has ceased to exist.

Commonwealth to assume liability

(2) The liability is taken to be a liability of the Commonwealth.

(12) Opp (10) [Sheet 5620 Revised]

Schedule 1, item 274B, page 372 (before line 12), before subparagraph 435B(2)(f)(i), insert:

   (ia) the powers conferred by section 249AK;
   (ib) the powers conferred by section 249AL;

(13) Opp (11) [Sheet 5620 Revised]

Schedule 1, item 274B, page 372 (after line 23), after subparagraph 435B(2)(f)(ix), insert:

   (ixa) the making of a declaration under section 249CZN;

HARRY EVANS
Clerk of the Senate

The Senate
10 November 2008