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Department of Industry



Financial Assurance

Information Session

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Introduction & Welcome

- Building safety induction (venue host)
- Welcome
- Purpose/objective
- Agenda outline

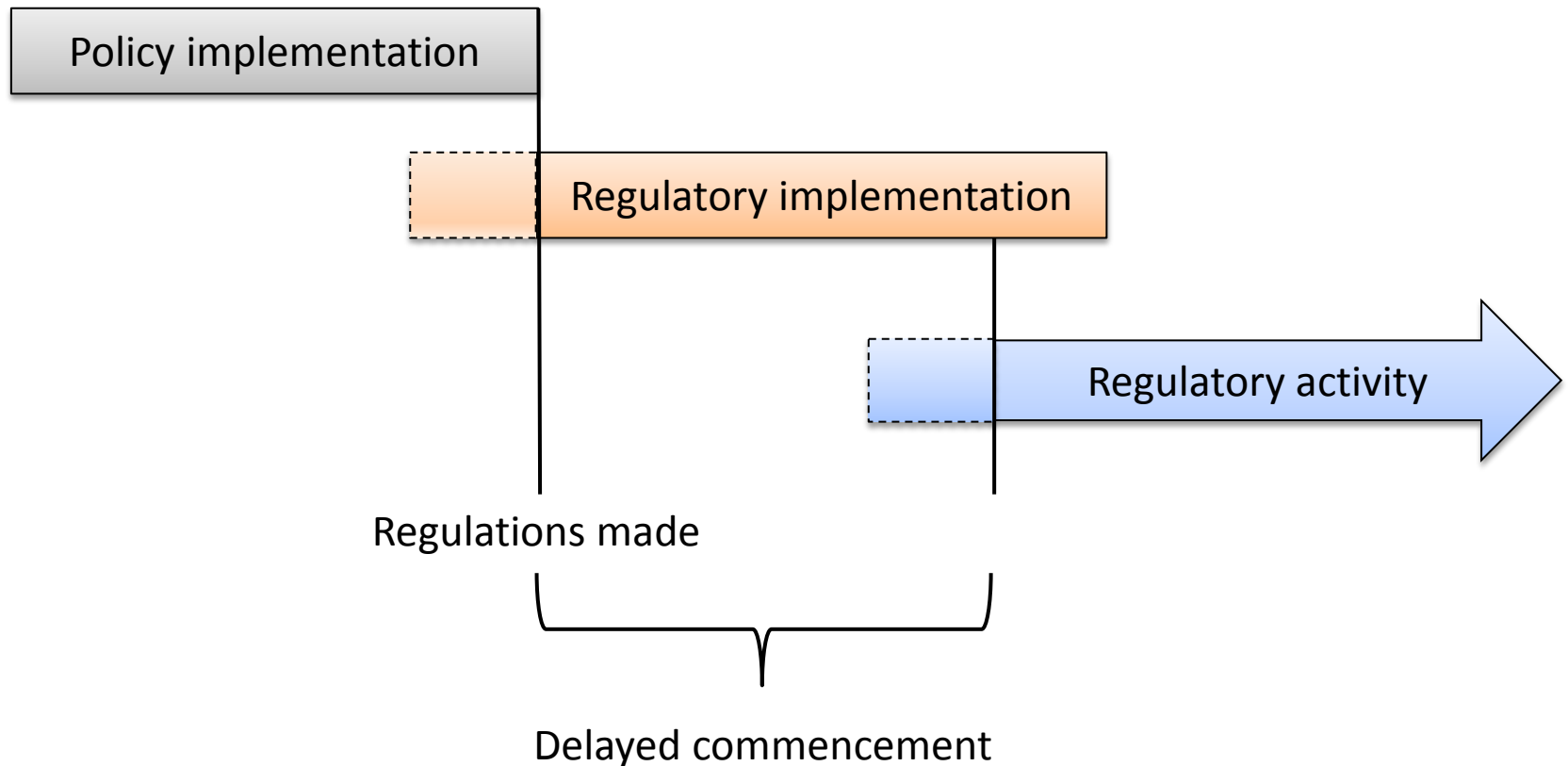


Agenda

- Dept of Industry, Offshore Resources Branch
 - Policy context
 - Legislative Amendments
 - Implementing the Policy
 - Draft regulations
- NOPSEMA
 - Approach to regulation
 - Policy and guidance development
 - NOPSEMA expectations for regulating financial assurance
 - What does it mean for EPs in force/under assessment?
 - Implementation and Regulatory processes
 - What industry can do to prepare



Financial Assurance Implementation





Policy Context

- Montara Commission of Inquiry

***Recommendation 96:** The obligation of companies involved in an incident to meet the full costs of monitoring and remediation should be made a condition of approval of proposals under the EPBC Act and OPGGS Act. Suitable arrangements (insurance or otherwise) need to be in place to ensure that companies have this capacity.*

- Government Response

Clarifications to ‘polluter pays’ provisions (including insurance) in the OPGGS Act.



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Legislative Amendments

- Financial assurance

s571(2):

The titleholder must, at all times while the title is in force, maintain financial assurance sufficient to give the titleholder the capacity to meet costs, expenses and liabilities arising in connection with, or as a result of:

- a) The carrying out of the petroleum activity; or*
- b) The doing of any other thing for the purposes of the petroleum activity; or*
- c) Complying (or failing to comply) with a requirement under this Act, or a legislative instrument under this Act, in relation to the petroleum activity.*



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Legislative Amendments

- Financial assurance

s571(3):

The following may be provided for by regulation:

- a) Compliance with subsection (2) in relation to a petroleum activity to be **demonstrated as a prior condition of acceptance of an environment plan** for the activity*
- b) Such compliance be in a form **acceptable to NOPSEMA***
- c) A failure to maintain such compliance, in a form acceptable to NOPSEMA, to be grounds for withdrawal of acceptance of an environment plan for the Activity.*



Implementing the Policy

- Policy statement
 - To be read in conjunction with draft regulations
 - Reasonably credible worst case consequences
 - Information requirements
 - Compliance demonstration
 - Transitional arrangements



Draft Regulations

- Disclaimer
 - Exposure draft
 - Not final but reflects substantive requirements and procedural aspects for the arrangements
 - Drafting will continue to be refined over the next month before being finalised for approval by Executive Council



Draft Regulations

- **Adequate** information requirements
 - a. Link to EP activity
 - b. Identify potential incident(s) arising from activity
 - c. Identify reasonably probable consequences arising from (b)
 - d. Quantify the costs, expenses, liabilities from (c)
 - e. Describe methods used in (d)
 - f. Describe form of financial assurance to meet (d)
 - g. Demonstration that financial assurance accessible



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Draft Regulations

- Compliance demonstration
 - Two-phase process for NOPSEMA to be satisfied
 1. Proposed financial assurance
 2. Evidence provided (i.e. executed documents)
 - Inspections and compliance
 - Evidence must be provided that financial assurance is in place



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Draft Regulations

- Cost Recovery
 - Fee payable to NOPSEMA for assessment
 - Existing power under the OPGGS Act



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Draft Regulations

- Transitional arrangements
 - Commencement: delayed to mid 2014
 - EPs lodged before commencement: not required to demonstrate financial assurance (until revision)
 - EPs lodged after commencement: will be required to demonstrate financial assurance
 - NOPSEMA may inspect against requirement from commencement
 - Note: Act requirement commences 29 November
 - The requirement to hold sufficient financial assurance will be in force from 29 November



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Questions?

Contacts:

Legal – Jessica Brown (jessica.brown@ret.gov.au)

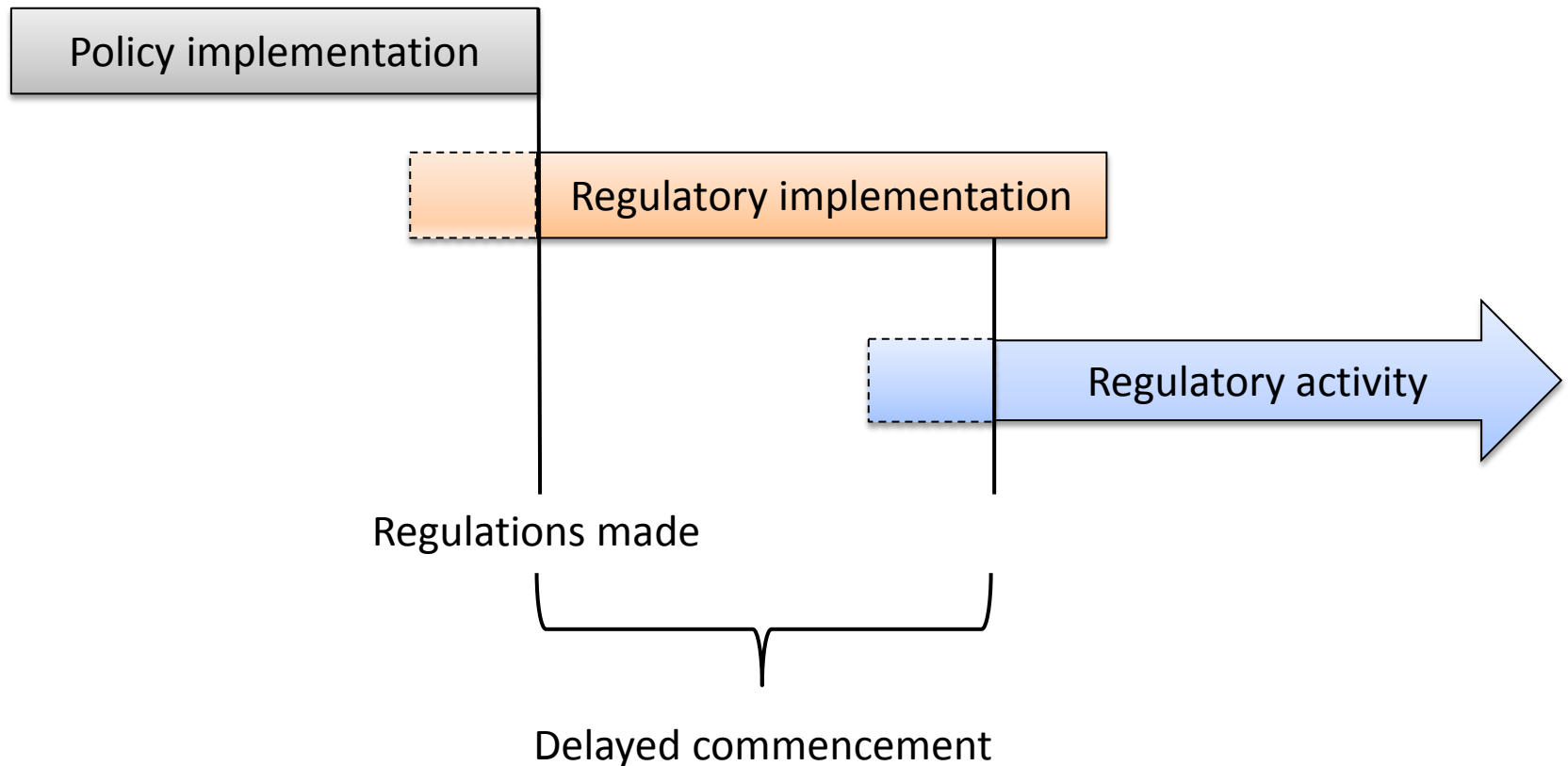
Policy – Joanna Bunting (joanna.bunting@ret.gov.au)

Objective

- To provide early engagement with titleholders on
 - Implementation of regulatory requirements
 - Promote engagement and communication between titleholder and NOPSEMA
 - Seek feedback on regulatory implementation



Financial Assurance Implementation



NOPSEMA approach to regulation

- NOPSEMA legislated functions
 - environmental management law
- Only consider what the law requires
- Independent and professional
- Competent staff
- Respect for due process

Regulatory activities

- Assessment
 - FA demonstration is precondition of acceptance of environment plan
 - Process for evaluating information requirements
 - Level of test applied (satisfied V reasonable grounds)
- Inspection
- Investigation
- Enforcement
 - Graduated scale of enforcement
 - Failure to maintain and demonstrate is grounds for withdrawal

Implementation of regulatory processes

- Finalisation of Regulations (DoI)
- Clarification and alignment on requirements
- NOPSEMA internal processes
 - Procedures, fees, submission process
- Communication with titleholders
 - Policy, guidance, workshops

Critical success factors for industry engagement

- Sufficient lead time
- Appropriate representation from both sides
- 2-way process, active engagement
- Variety of forums/methods of communication

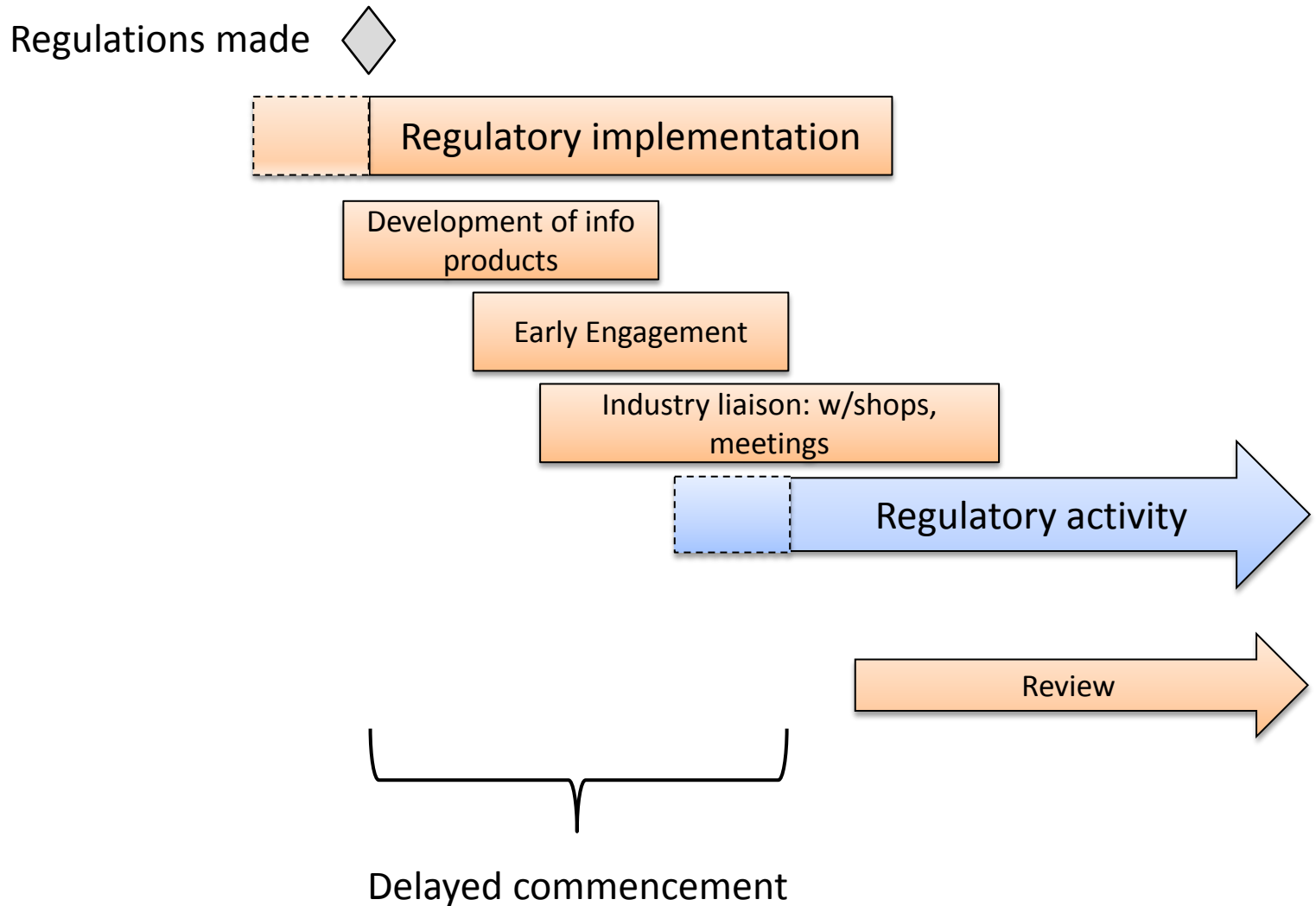
Advice to Titleholders

- Make yourself familiar with the legislative requirements
- Actively participate in engagement in development of policy and guidance
- Methodology for demonstration of FA
- Early engagement – pilot scheme, test your approach

Key Factors

- To the **satisfaction** of the regulator
- **Demonstration** of compliance with s571(2) of Act
 - form
 - timing
- **Adequate** information

Next Steps



Thank you

Questions?

Contact: financialassurance@nopsema.gov.au