



STREAMLINING OF ENVIRONMENTAL APPROVALS - NOPSEMA

The Minister for the Environment, the Hon Greg Hunt MP, has endorsed and approved the National Offshore Petroleum Safety and Environmental Management Authority's (NOPSEMA's) environmental authorisation process as meeting the relevant objectives of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). As a result, petroleum activities authorised by NOPSEMA will fulfil the requirements of the EPBC Act. This process makes NOPSEMA the sole environmental approvals assessor for offshore petroleum activities in Commonwealth waters.

This endorsement follows the release of amendments to the *Offshore Petroleum and Greenhouse Gas Storage (Environment Regulations) 2009* by the Minister for Industry, the Hon Ian Macfarlane MP. The amendment (*OPGGGS Legislation Amendment (Environment Measures) 2014*) gives effect to streamlining initiatives between NOPSEMA and the EPBC Act. The amendment also implements several outcomes from the 2012 Review of the *OPGGSA Environment Regulations*. The Exposure Draft was released for public comment on 6 December 2013.

The Regulations underpin the endorsement of NOPSEMA and are now in force (from 28 February 2014). However, there is a Parliamentary requirement that Regulations must undergo a disallowable period of 15 'sitting' days in both the House of Representatives and the Senate. In that time, if a disallowance motion is called, it must be heard and must be passed by a majority for the Regulations to then be disallowed. The 15 sitting days began on the 24 February 2014 for the House of Representatives (ending 26 March 2014) and will commence once it is tabled in the Senate (concluding between 15 May and 24 June 2014 at the latest). In the meantime, the Regulations will remain in force and depending on the political process, debate may take several months.

NOPSEMA and the Department of Industry are working on guidance to help operators understand the new requirements. Further details on transitional arrangements are available on [NOPSEMA's website](#) or the [Department of Industry website](#).

Background – Strategic Assessment and Program

In October 2013, the Minister for Industry, the Minister for the Environment and the Chief Executive Officer of NOPSEMA agreed to undertake a Strategic Assessment, under Part 10 of the EPBC Act, of NOPSEMA's offshore petroleum and greenhouse gas environmental management authorisation processes. The aim of this process was to deliver a 'one-stop shop' for environmental approvals of offshore petroleum activities in Commonwealth waters, as well as in designated State or Territory waters where those jurisdictions' powers have been (or may be in the future) conferred to the Commonwealth.

A Program was developed that allows for matters protected under Part 3 of the EPBC Act to be adequately provided for by NOPSEMA's processes and a Strategic Assessment was undertaken to allow the Minister for the Environment to 'endorse' the Program under the EPBC Act and approve actions or classes of actions undertaken in accordance with that Program.



Implementing the proposed Program required a series of amendments to regulations under the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (OPGGSA), including the introduction of the concept of an Offshore Project Proposal (see below for more information).

KEY AMENDMENTS / CHANGES TO NOPSEMA'S PROGRAM

The regulation amendment facilitates the streamlining of environmental approvals through NOPSEMA. The key regulatory amendments to the OPGGSA regime include the following.

Offshore Project Proposal (OPP)

A titleholder is to submit an OPP to NOPSEMA. The OPP introduces a mandatory public consultation process for large-scale petroleum production projects (petroleum recovery) that would have been likely to require an approval under Part 3 of the EPBC Act.

- The OPP will replace referrals under the EPBC Act.
- NOPSEMA will assess and accept OPPs but this acceptance does not in itself allow any 'petroleum activity' to actually commence and therefore does not trigger any ongoing assessment or compliance activity by NOPSEMA. This is an important point in relation to 'resourcing' NOPSEMA – there will not be a need for extensive new resourcing of NOPSEMA.
- The OPP is a high-level document that looks at the whole of a project proposal. It is a higher order document than activity-specific Environment Plans (EPs). Unlike an EP, an OPP does not require the operator to demonstrate their performance measures, 'ALARP' or 'Acceptable' risk. It is also not intended to be as large and detailed as an Environmental Impact Statement.
- OPPs will be supported by activity-specific EPs, and the EPs must be consistent and in scope with the OPP.
- An OPP will only be required for new projects – the draft regulations are clear that activities such as 'tiebacks' are not new projects and will not require an OPP. However, what is 'new' is still not clear. A possible threshold test might be: "If you need a new title, you need an OPP".

Transfer of Responsibility from 'Operator' to the 'Titleholder'

- The responsibility for submitting and complying with an environment plan and regulations (including submission of an OPP) will now sit with the 'Titleholder' rather than the Operator of the activity (the concept of Operator will be removed from the regulations).
- The definitions of 'petroleum instrument' and 'petroleum instrument holder' have been repealed from the regulations and replaced with definitions of petroleum and petroleum titleholder. This change is to align the regulations with the OPGGSA, and also clarifies that petroleum activities are done so under the authority of a title. This is intended to ensure that EP requirements and any subsequent risks sit with the titleholder.
- The new definition now includes petroleum Access Authorities, Special Prospecting Authorities and Scientific Investigation Consents as a petroleum title. This has the effect that a holder of such a consent or authority (for example, for a Marine Seismic Survey) is now considered to be a petroleum titleholder and can submit an EP in their own right. This may help alleviate issues raised by seismic survey contractors who would generally not be a titleholder.

Definition of Petroleum activity

- The definition of 'petroleum activity' has been amended to clarify the scope of the definition. The new definition now clearly links a petroleum activity to the titleholder's rights and obligations. The intent of this amendment is to ensure that the regulations do not affect activities beyond the scope of the OPGGSA.
- The definition clarifies that only operations or works carried out in an offshore area may be a 'petroleum activity' if they are carried out for the purpose of exercising a right conferred on a titleholder by a title (or to discharge an obligation imposed on a petroleum titleholder). For



instance, a petroleum exploration permit (Section 98 of the OPGGS Act) gives the right to explore for petroleum, etc. In addition, this amendment and memorandum clarifies that all title conditions are not petroleum activities.

World Heritage Property

- The Regulations introduce amendments to the acceptance criteria for an EP whereby NOPSEMA cannot accept an EP for an activity (or part of an activity) in any part of a declared World Heritage property, such as Ningaloo Coast and Shark Bay, Western Australia. This prohibition gives effect to Australia's international obligations and does not prohibit monitoring or emergency response.

Request for Further Information from NOPSEMA

- Previously, unlike the process for developing a Safety Case, there was no specific provision that gave NOPSEMA flexibility to request additional information during its assessment of the environment plan. A new regulation (9A) enables NOPSEMA to request further written information about any matter required by the Principle Regulations to be included in an EP. This opens another avenue to refine the Environment Plan with the additional information without requiring resubmission or NOPSEMA having to refuse to accept the plan.

Produced Formation Water (PFW)

- The Regulations have removed the previous prescriptive requirements related to the measurement and management of PFW. Discharges of PFW are instead to be monitored and managed in the same way as other emissions and discharges from offshore petroleum facilities, i.e. in accordance with the accepted implementation strategy and the principles of ALARP.

NEXT STEPS

- The Regulations and Program has commenced (from 28th February 2014). For all petroleum activities in Commonwealth waters, impacts on matters protected under Part 3 of the EPBC Act will now be assessed through NOPSEMA. In accordance with the endorsed Program, referral of these activities under the EPBC Act will no longer be required.
- Transitional Guidance is available on [NOPSEMA's website](#). If you require further information on how the transition could affect EP applications currently being prepared for submission, please contact NOPSEMA's Environment Division directly on 08 6188 8700. NOPSEMA advises that operators should talk to it as soon as possible about their OPP requirements.
- Further information is available via the [Department of Industry website](#). The relevant DoI staff can be contacted at offshoreenvironment@industry.gov.au. Stakeholders with queries about the status of existing EPBC approvals and how these could be affected by the transition can contact the Department of the Environment on 02 6274 2973.

Copies of the joint announcement by the Minister for the Environment and the Minister for Industry, together with APPEA's media release welcoming the decision are attached.

For more information, contact the APPEA Environment Team: [Miranda Taylor](#) (tel: 08 9426 7201) or [Keld Knudsen](#) (tel: 02 6267 0907).

28 February 2014



THE HON IAN MACFARLANE MP
Minister for Industry

THE HON GREG HUNT MP
Minister for the Environment

JOINT MEDIA RELEASE

28 February 2014

STREAMLINED OFFSHORE PETROLEUM AND GREENHOUSE GAS APPROVALS – A ONE-STOP SHOP TO BOOST PRODUCTIVITY

A new streamlined approach for offshore petroleum and greenhouse gas activity environmental approvals comes into effect today, reducing regulatory burden and boosting business productivity while maintaining high environmental standards.

The streamlined approach will lead to savings for industry and environmental groups worth an estimated \$120 million per year.

Minister for Industry Ian Macfarlane and Minister for the Environment Greg Hunt named the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) as the sole assessor for offshore petroleum and greenhouse gas activities in Commonwealth waters.

Mr Macfarlane said the one-stop shop approvals process would remove unnecessary duplication between two sets of laws, which had discouraged investment by adding costly layers of red tape for businesses trying to develop offshore projects.

“The environmental impacts of offshore activities were regulated under both the Environment Protection and Biodiversity Conservation Act 1999 (the EPBC Act) and the Offshore Petroleum and Greenhouse Gas Storage Act 2006,” Mr Macfarlane said.

“NOPSEMA will now be the single point of contact for titleholders seeking regulatory approval, which means faster approvals and no duplication.

“NOPSEMA’s objective-based approach provides flexibility, promotes innovation and best practice environmental management and will lead to improved environmental outcomes in the future.”

Mr Hunt said the decision to streamline the process was made following a formal and thorough Strategic Assessment under the EPBC Act, including nationwide public consultation with key stakeholders.

“The one-stop shop will maintain strong environmental safeguards and high environmental standards through a more streamlined process. There is no need to have two approvals processes when one can provide the same level of environmental protection,” Mr Hunt said.

“The NOPSEMA process that I have endorsed will include strict safeguards for the prevention of offshore activities within the boundaries of all World Heritage areas, including the Great Barrier Reef.”

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28 February 2014

Streamlining offshore regulations will deliver dividend for Australia

The oil and gas industry has welcomed Minister for the Environment Greg Hunt's endorsement of streamlined approvals processes for offshore oil and gas operations that maintains existing high environmental safeguards.

Minister Hunt has endorsed making the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) the sole environmental approvals assessor for offshore petroleum activities in Commonwealth waters. This concludes a process initiated in 2013 by the Gillard Government.

Previously, companies required equivalent approvals from two Federal Government bodies – NOPSEMA and the Department of Environment. This change removes the unnecessary duplication. Industry and interested members of the public will now have one point of contact and one regulatory approval system.

APPEA Chief Executive David Byers said this streamlining of environmental approvals would mean clearer approvals processes and increase returns to project developers, suppliers, government and the Australian people.

"By eliminating unnecessary duplication, this move will save taxpayers and industry millions of dollars without impairing environmental outcomes. It will reduce costs and delays for companies undertaking offshore exploration and production activities. But it will also reduce costs for regulatory agencies and taxpayers.

"This is an important early step in the federal government's move towards 'one-stop shops' for environmental approvals and for its deregulation agenda as a whole.

"Policies that undermine the development of energy projects and curtail energy production impose real costs on Australia through lost jobs, forgone economic growth and higher energy bills.

"The oil and gas industry welcomes the bipartisan approach that the major parties have taken to this important issue."

Several independent reviews in recent years have recommended streamlining of processes, including the Productivity Commission Report on Mineral and Energy Resource Exploration, the Productivity Commission Report on Major Project Development Assessment Processes, and the Hawke Review.

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