

End of the operation of an environment plan – Regulation 25A

1 Purpose

The purpose of this guideline is to provide advice to titleholders regarding NOPSEMA's interpretation on the requirements for end of operation of an environment plan (EP) through notification to NOPSEMA under regulation 25A of the Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2009 (the Regulations)¹. The process for making this notification, and the implications of doing so, are discussed and NOPSEMA's approach to accepting the notification of completion of an EP acceptance is also summarised.

2 Background

The regulations stipulate that a titleholder must have an EP in-force to conduct a petroleum or greenhouse gas activity. Once an activity has been completed, regulation 25A provides that an EP may end when the titleholder notifies NOPSEMA and NOPSEMA accepts the notification.

3 Completion of environment plan

End of environment plan

25A Plan ends when titleholder notifies completion

The operation of an environment plan ends when:

- (a) the titleholder notifies the Regulator that:
 - i. the activity or activities to which the plan relates have ended; and
 - ii. all of the obligations under the environment plan have been completed; and
- (b) the Regulator accepts the notification.

Regulation 25A specifies the conditions under which a plan ends. For the purposes of Regulation 25A(a), the activity or activities have ended when they are complete, or when the timeframe in which the activities were permitted to be undertaken has passed. The obligations under the EP are taken to be all of the commitments and performance standards contained within the EP; as well as other relevant regulatory requirements, summarised in Section 3.1 below, and are required to be complied with. In situations where the EP has ended and activities have not been undertaken or completed during the timeframe specified in the EP, there may be obligations under the EP which are still required to be met.

¹ Note that the regulations also provide two other ways for the operation of an environment plan to end: NOPSEMA may withdraw acceptance of the EP (regulation 23) or acceptance of a proposed revision may supersede an EP (regulation 21). These regulations are not within the scope of this guideline.

3.1 Declaration requirements

NOPSEMA prefers that notifications under regulation 25A are provided using the declaration form provided on our website (N-04750-FM1408)². The form includes a declaration, which should be signed by a company director or authorized officer with the titleholders' express or implied authority to act for and on behalf of the titleholder. Where there are multiple titleholders, the titleholder that is authorised to undertake eligible voluntary actions³ may submit a single declaration on behalf of all titleholders.

Notifications under regulation 25A are an eligible voluntary action for the purposes of Part 9.6A of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (OPGGs Act) and the titleholder who is nominated to as the titleholder for the purposes of the EP is required to make the notification. Titleholder(s) are responsible for ensuring that this submission is made in accordance with the requirements for taking eligible voluntary actions under Part 9.6A of the OPGGS Act in all cases.

Prior to 28 February 2014, operators of the activity were permitted to submit an EP. Operators were the person responsible to the titleholder for the overall management and operation of the activity or in the case where there is no title, the person performing the activity. Where an EP was submitted to NOPSEMA prior to 28 February 2014 and the EP has now ended, the titleholder for that activity (regardless of who the operator was prior to 28 February 2014) is required to complete the declaration form⁴.

The declaration asks titleholders to assure themselves and confirm with NOPSEMA that all obligations under the EP in force are completed. These obligations include (but are not limited to):

- any reportable incidents for the activity have been reported to NOPSEMA and also been reported to the Titles Administrator and Department of the responsible state Minister or Northern Territory Minister (regulation 26, 26A)
- all monthly recordable incident reports for the duration of the activity have been provided to NOPSEMA (regulation 26B)
- all environmental performance report(s) have been submitted to NOPSEMA (regulation 26C)
- the titleholder having notified NOPSEMA that the activity or activities under the EP are completed (regulation 29)⁵
- all enforcement actions, notices, directions and inspection recommendations relevant to the activity have been complied with and related actions completed
- all environmental performance standards and outcomes contained in the EP have been met (or, where relevant, obligations to report recordable and reportable incidents have been met)
- any post-activity monitoring, surveys, consultation, reporting or other commitments made in the implementation strategy have been completed⁶
- any structures, equipment or other property brought into the title area for the activity has been removed in accordance with the accepted EP
- all levies owed for the activity have been paid to NOPSEMA⁷.

² <https://www.nopsema.gov.au/environmental-management/notification-and-reporting/>

³ Submission of a regulation 25A declaration to NOPSEMA is an eligible voluntary action for the purposes of Part 9.6A of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (OPGGs Act). Titleholders submitting a declaration remain responsible for compliance the requirements of Part 9.6A in all cases.

⁴ Titleholders or former operators should seek clarification from NOPSEMA on their individual circumstances if there is any confusion over which party should submit the notification.

⁵ Titleholders must submit both an activity completion notification (regulation 29) and an EP completion notification (regulation 25A) for an EP to end. This is due to the fact that although activities under the EP may be complete; obligations under the EP may not yet be complete, and so the EP cannot be ended until the obligations have been fulfilled.

⁶ If a titleholder feels that they are unable to complete any post-activity commitment they should contact NOPSEMA for advice prior to submitting a regulation 25A notification.

3.2 Implications of completing an environment plan

Once NOPSEMA has accepted a declaration under regulation 25A the operation of an EP ends and the obligations under the EP, and most obligations under the regulations, which applied to the activity no longer apply. This includes removal of the obligations for:

- revisions of the EP (division 2.4)
- incident reporting and recording (regulations 26, 26A, 26AA, and 26B)
- reporting of environmental performance (regulation 26C)
- notifying of activities and operations (regulations 29 and 30).
- payment of levies under the Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Regulations 2004 (Levies Regulations)

Please note that ending the operation of an EP does not remove obligations under the Regulations for record keeping and storage (Regulations 27 and 28).

The end of an EP does not remove obligations under the OPGGS Act and other associated regulations. These include (but are not limited to):

- directions issued by NOPSEMA
- environmental obligations placed on a titleholder under the provisions of the OPGGS Act (e.g. prevent the waste or escape of petroleum and other pollutants (s569), removal of property/ infrastructure s572 and cleanup of escaped petroleum and remediate any resulting damage to the environment s572A)
- maintenance of financial assurance provisions for the title (s571)
- cooperation and compliance with the applicable inspection and enforcement functions of NOPSEMA inspectors in accordance with part 6.5 and schedule 2A of the Act.

4 NOPSEMA verification and acceptance

Once the notification has been received from the titleholder, NOPSEMA will conduct its own verification to confirm that the obligations under the EP have been completed. This will include checking the status of inspection recommendations, incidents, reporting, and environmental performance.

NOPSEMA will advise the titleholder when the notification has been accepted or, if further action, information or confirmation is required prior to NOPSEMA being able to accept the notification. Once the notification is accepted, the EP is no longer in-force, and the obligations and rights to conduct the petroleum activity will cease. The EP cannot be reactivated or revised after this time.

Until the notification is accepted by NOPSEMA, all obligations under the EP still apply as the EP is still in-force. Consequently, until the titleholder receives acceptance of the notification by NOPSEMA, they should continue to comply with all requirements that apply to the activity under the EP, OPGGS Act and regulations.

NOPSEMA's acceptance of the notification does not preclude NOPSEMA inspector for compliance with the EP at a future date or undertaking an investigation or enforcement action relevant to the activity, should

⁷ For advice on outstanding levy obligations for a particular activity, please contact levynotify@nopsema.gov.au.

information come to light that indicates some kind of non-compliance with the EP, the OPGGS Act or the regulations and/or NOPSEMA has grounds to believe that false information was provided.

5 Further reading

N-04750-GL1350 – Guideline – Environmental management cost recovery

N-03000-GN0926 – Guidance note – Notification and reporting of environmental incidents

N-04750-FM1408 – Form – Regulation 25A – End of operation of environment plan

NOPSEMA would welcome any feedback you have regarding this guideline. If you should have any feedback please direct this to feedback@nopsema.gov.au