Potential administration of transparency amendments

Background

The Department of Industry, Innovation and Science (DIIS) is coordinating amendments to the Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2009 (Environment Regulations) relating to consultation and transparency. DIIS is conducting consultation on an Exposure Draft of the amending Regulations and has issued an explanatory document to supplement this.

The National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) has been working closely with DIIS and will be participating in consultation on the Exposure Draft of the regulation amendments.

Purpose

To assist stakeholders in understanding the changes to the environment plan assessment process resulting from the regulatory amendments proposed in the Exposure Draft, this document describes how NOPSEMA’s system and processes could be modified to implement amended Regulations. NOPSEMA is seeking feedback on these draft proposals during the consultation period to refine our approach, as the regulatory amendment process nears completion.

Possible changes to the assessment process

Possible changes to NOPSEMA’s guidance, website and environment plan assessment process are outlined in the table below and presented in a flow chart in Attachment A. This is not a final plan, rather it is intended to assist consultation and elicit feedback on how NOPSEMA may implement the regulations once amended.

<table>
<thead>
<tr>
<th>New requirement</th>
<th>Proposal for how this could be administered by NOPSEMA</th>
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<tbody>
<tr>
<td>Submission of an environment plan – completeness check</td>
<td>When a submission is made, the titleholder will receive confirmation of receipt by NOPSEMA. NOPSEMA will provide written information on the outcome of the completeness check within five business days. Communications with the titleholder will typically be via email to a nominated contact person. Changes to NOPSEMA’s policy and guidance documents will be made to give effect to this step.</td>
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| Publication of environment plans on submission (all environment plans) | NOPSEMA will prescribe the format in which environment plans must be submitted to enable publication. This would likely include:  
  • one searchable pdf for the environment plan for publication on NOPSEMA’s website, and  
  • a separate searchable pdf for copies of the full text of consultation records and any sensitive information identified by relevant persons, for review by NOPSEMA but not for publication.  

  Exploration environment plans would be published in an “Open for comment” region on the NOPSEMA website, with links to online public comment forms. Development environment plans would be published in an “Under assessment” region on the NOPSEMA website. (see Attachment B for an example) |
| Public comment period – exploratory seismic or drilling activities | NOPSEMA will publish new guidance for the public on the public comment process, including:  
  • how to make an effective comment,  
  • explaining that NOPSEMA will not be able to consider comments received outside the public comment period, and  
  • describing the difference between public comment on the submitted environment plan, and consultation with relevant persons during preparation of the environment plan.  

  NOPSEMA’s website will have an “Open for comment” region in which all exploration environment plans undergoing public comment can be viewed, and links to online public comment forms will be provided (see Attachment C for an example).  

  Public comment forms will contain some brief guidance on how to make effective comments, and will be populated with some headings to assist members of the public to express their views on the environment plan, and to assist NOPSEMA and the titleholder in analysing comments received. There will also be an option to upload an electronic version of a document (e.g. a letter or report) when making a comment.  

  NOPSEMA’s preferred method for receiving comments will be via the website in online forms. Comments sent by email or post will also be taken into account, but NOPSEMA’s guidance and communications will encourage use of the online forms as the primary method for making comment.  

  Submitted comments will be received by NOPSEMA, and subsequently provided to the titleholder. Submitted comments will not be visible to other members of the public during the comment period. |
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<td><strong>Consideration of public comments – titleholder</strong></td>
<td>NOPSEMA will prescribe the format in which statements of the titleholder’s response to public comments must be provided. This will likely be in table form, which can be populated by the titleholder and subsequently completed by NOPSEMA at the final decision point (explained further below), to enable efficient production of reports in a consistent style.</td>
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<tr>
<td><strong>Assessment of an environment plan by the Regulator</strong></td>
<td>There will be no change to NOPSEMA’s process for assessing an environment plan, other than to take into account comments received during the public comment period when considering whether the environment plan meets the acceptance criteria in the Environment Regulations. NOPSEMA’s guidance (e.g. Environment plan decision making guideline GL1721) will be updated to explain how public comments will be used in assessment decision making.</td>
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<td>NOPSEMA’s website will have an “Under assessment” region in which environment plans submitted for assessment (i.e. post-public-comment for exploration, and post-completeness-check for development environment plans) can be viewed, along with some basic details about the assessment process, such as the submission date and the titleholder contact details.</td>
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<td>If NOPSEMA issues a request for further written information during the assessment process, the titleholder will be required to submit a full amended environment plan with the new information incorporated, rather than a supplementary document such as the response table currently used.</td>
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<tr>
<td><strong>Significant modification of an environment plan prior to acceptance</strong></td>
<td>Exploration environment plans that are re-released for public comment would move from the “Under assessment” region on the NOPSEMA website, back to the “Open for comment” region.</td>
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<td>Changes to NOPSEMA’s policy and guidance documents will be made to give effect to this step.</td>
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<td>Publication of an environment plan on acceptance</td>
<td>At the end of the assessment process, NOPSEMA will publish the final decision (i.e. accept or refuse) alongside the final environment plan, within the “Under assessment” area of the website. Accepted environment plans will then be moved to an “Underway offshore” region on the NOPSEMA website. This area will contain all current environment plans for permissioned petroleum activities, both exploration and development, as well as some information on the history of the activity, such as links to previous revisions of the environment plans (if any). For each accepted exploration environment plan, NOPSEMA will also publish a report on how public comments (if any) were taken into account in the assessment decision. This will likely be a short report that shows the titleholder’s summary of the issues raised in public comment, the titleholder’s response to these issues, and how NOPSEMA considered these issues and the titleholder’s response when making a final assessment decision.</td>
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<td>Acceptance of an environment plan in part</td>
<td>There would be no change to NOPSEMA’s current approach to accepting environment plans in part, which is only to apply this option in exceptional circumstances and with the approval of the NOPSEMA Chief Executive Officer. In the rare event that an environment plan was accepted in part, NOPSEMA would publish the details of this decision alongside the full final environment plan on the NOPSEMA website.</td>
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<tr>
<td>Proposed revision of an environment plan</td>
<td>For proposed revisions of environment plans submitted under regulations 17, 18 or 19, NOPSEMA would apply the same processes as described above, as though they were new environment plans. When a proposed revision of an environment plan is accepted, it will be published in the “Underway offshore” region of the NOPSEMA website, linked with the existing entry for its relevant petroleum activity. Previous, superseded revisions of the environment plan for the activity will also remain available in this part of the website.</td>
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**Feedback to NOPSEMA**

NOPSEMA welcomes feedback on the proposals above via email: environment@nopsema.gov.au

**Links**

NOPSEMA’s existing policies and guidance are available at: https://www.nopsema.gov.au/environmental-management/environment-resources/
Attachment A – Proposed amendments to the EP assessment process

**Consultation with relevant persons**
- Coordinated by the Titleholder
- Regulatory requirements already established
- NOPSEMA guidance available

**Submission of EP**
- Titleholder submits EP to NOPSEMA

**Completeness check**
- Performed by NOPSEMA
  - Check whether the EP contains all required contents
  - 5 business days
  - If the EP is incomplete, give written notice of missing items

**Publication of EP for assessment**
- NOPSEMA website
  - Sensitive information not published
  - Details of the titleholder’s nominated liaison person for any enquiries

**Assessment of EP**
- Undertaken by NOPSEMA
  - No change to criteria
  - Guidance available
  - Opportunities to modify/request for further info

**Assessment decision**
- Accept or Refuse
  - NOPSEMA notifies Titleholder of final decision by letter

**Publication of accepted EP**
- NOPSEMA website
  - Sensitive information not published
  - Details of the titleholder’s nominated liaison person for any enquiries

**Exploratory seismic or drilling EPs:**
- NOPSEMA considers public comment
- Titleholder responds to comments
  - Titleholder must provide a statement responding to comments, and any changes made to the EP
- NOPSEMA must submit another copy of the EP for assessment, modified or not.

**Existing process**
- NOPSEMA considers the information received in public comment as it relates to the content of the EP, and the criteria for acceptance

**New or modified process**
- NOPSEMA must publish a statement on how public comments were taken into account in making the assessment decision.

**Publication of EP for public comment**
- NOPSEMA website
  - Sensitive information not published
  - Details of the titleholder’s nominated liaison person for any enquiries

**Public comment period**
- 30 days
  - Comments invited by NOPSEMA
  - NOPSEMA must respond to comments
  -NOPSEMA provides comments to the Titleholder

**Titleholder response to comments**
- Titleholder must provide a statement responding to comments, and any changes made to the EP
  - NOPSEMA must submit another copy of the EP for assessment, modified or not.
Attachment B – Mock new layout for NOPSEMA website

ENVIRONMENT PLANS

Open for comment
Have your say on environment plans undergoing public comment

Under assessment
View environment plans currently being assessed by NOPSEMA

Underway offshore
View the environment plans for permissioned exploration and development activities

Historical
Download past environment plans for activities that have now ended
Attachment C – Example of an online public comment form