NOPSEMA Environment Management Regulatory Update and Workshop

Melbourne

26 July 2012
• Agenda
  – Safety briefing
  – Introductions and scoping
  – Regulatory update + Six-month look back
  – OSCP Guidance and Updates*
  – EP Guidance Note Project – Update*
  – Future activities and regulatory reform*
  – Close
Purpose and Outcomes

• To provide an opportunity to east coast based offshore petroleum operators to contribute to aspects of Environmental Management and its regulation

• Outcomes
  – Updated knowledge of assessment process and current status of submissions
  – Reflected on the first six months of NOPSEMA regulation
  – Provided input into work priorities and regulatory reform
Synergies

- Mutual agreement on direction
- Recognise the importance of and contribute to continuous improvement

What can we agree on?

- The operator is the best person to manage the risk.
- A safe and environmentally responsible offshore petroleum industry.
- Industry wants the flexibility of an objectives based approach.
- Industry needs a strong, independent and professional regulator.
- An industry, government and regulator prepared and ready to respond to significant oil spill incidents.
Legislation administered by NOPSEMA

Commonwealth *Offshore Petroleum and Greenhouse Gas Storage Act 2006*

Schedule 3 – OHS law

Safety regulations

Wells via resource mgt regulations

Environment regulations
NOPSEMA’s regulatory activities

Assessment
- Independent, sampled evaluation of an operator’s submission against the regulations
- Challenge operators: “Have you done enough?”

Inspection
- Independent, sampled inspection of the petroleum activity against the accepted EP and regulations
- Challenge operators: “Are you doing what you said you would do?”

Investigation
- Independent inspection to determine what went wrong and determine whether enforcement/prosecution is required
- Challenge operators: “What wasn’t done? What can we learn?”

Enforcement
- Take action within powers under the Act and regulations to secure compliance
Regulatory Update +
Six-month look back
<table>
<thead>
<tr>
<th>Category</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Submissions Received</td>
<td>62</td>
</tr>
<tr>
<td>Transferred from DAs</td>
<td>6</td>
</tr>
<tr>
<td>Acceptances</td>
<td>26</td>
</tr>
<tr>
<td>Refusals</td>
<td>3</td>
</tr>
<tr>
<td>Returned to Operator</td>
<td>16</td>
</tr>
<tr>
<td>With NOPSEMA</td>
<td>17</td>
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</tbody>
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*as at 25 July 2012
Summary of NOPSEMA activities 2012 to date

• 60+ operator liaison meetings

• Assessments
  – 87% accepted vs 13% refused
  – 98% assessments within timeframe (30 days)
  – 20 days average time for notification

• Inspection program commenced

• 7 industry workshops, Perth and Melbourne
  – Environment Plans, OSCP’s, Guidance Development

• Guidance for spill preparedness and response
  – OSCP Preparation Guidance Note Revision 2
  – Explanatory Note
Engagement program: tailored and two-way communications

**Regulatory**
- Operator liaison meetings
- Operator regulatory clarification meetings
- Operator liaison on decisions
- Ad-hoc advice requests (email and phone)
- Policies and Guidance Notes
- NOPSEMA decisions feedback
- Industry performance reporting

**Non Regulatory**
- Industry briefings
- Other stakeholder briefings
- Industry env mgt workshop program
- APPEA committees and quarterly liaison
- High level operator liaison
- CEO delegation briefings
- The Regulator newsletter
- Alerts
- NOPSEMA feedback/complaints

**External Opportunities**
- Key issues working groups (Co-lead or participate)
- Input / review to APPEA guidelines and standards
- Regulators for a (APRF, IRF, IOPER and AELERT)
- Conference and seminar participation
• Peak of submissions in January/February but increasing trend since March
• Average time to first notification is 22 days
• 98% of Notifications made within 30 day time period
Assessment timelines

1 Jan – 30 June 2012

Notes:
1. Chart represents assessment status as at 1 July 2012
2. Assessments without “in progress” bars are complete and accepted
3. * indicates activities for which additional time for notification agreed with the operator to allow for complex assessment and/or operator’s assessment priorities.
Regulation 11(1)(b) – demonstrates that environmental impacts and risks of the activity will be reduced to as low as reasonably practicable (ALARP)

- On commencement - 1 January 2012:
  - Limited demonstration of ALARP
  - Confusion with demonstration of acceptable levels

- 6 months after commencement - now:
  - Methodologies
  - Options analysis/cost benefit analysis/hierarchy of controls

- The future:
  - Refinement and fine-tuning
  - Consideration and better use of existing studies and information
Environment Plan - Objectives, Standards, Criteria

• Regulation 11(1)(d) – provides for appropriate environmental performance objectives, environmental performance standards and measurement criteria

• On commencement - 1 January 2012:
  – Not specific
  – Not measurable

• 6 months after commencement - now:
  – Often measurable and specific
  – Confusion regarding standards and measurement criteria

• The future:
  – SMART
  – Risk and activity specific
Regulation 11(1)(f) – **demonstrates** the operator has carried out consultation with **relevant persons**

- **On commencement - 1 January 2012:**
  - Brief description of consultation
- **6 months after commencement - now:**
  - Summary
  - Generally contains an assessment of merit
  - Full text of responses
- **The future:**
  - Strategic engagement by industry

- Section 646, 600, 601
- Inspection policy published
- Inspection types: *planned* and *other*
- Provision of inspection briefs and reports
- Sampled and team based approach to inspections
- Inspection to secure compliance against the accepted EP
Environmental Management
Inspections

Annual Environmental Management Inspection Program

• Inspection Targets
  – 4 Inspections have been undertaken or currently underway
  – 2012/13 inspection target of 25 different activities
  – Inspections will include a sample of facilities, MODU’s and other activity types
  – Long term inspection target of ~70 activities

• Transitional Arrangements
  – Environment plans accepted by DA’s will not be the focus of the annual inspection program
## Monitoring Challenges and Opportunities

<table>
<thead>
<tr>
<th>Challenges</th>
<th>Opportunities</th>
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</thead>
<tbody>
<tr>
<td>Environmental monitoring requirements not explicitly stated in the Regulations</td>
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</tr>
<tr>
<td>Determining the extent of monitoring warranted</td>
<td>Flexibility to demonstrate an appropriate level is achieved</td>
</tr>
<tr>
<td>Gaps in regional baseline environmental data</td>
<td>Industry collaboration at regional level</td>
</tr>
<tr>
<td>Demonstrating risks and impacts are acceptable and ALARP</td>
<td>Reduce operator requirements for monitoring</td>
</tr>
<tr>
<td>Relating objectives to protection of the receiving environment</td>
<td>Increase regulator and stakeholder confidence</td>
</tr>
<tr>
<td>Demonstrating environmental objectives can be met</td>
<td>Results in accepted and achievable approaches</td>
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<tr>
<td>Limited data sharing and lessons learnt</td>
<td>Greater transparency and less duplication of effort</td>
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Environment Plan Assessment by Activity Type

- Storage, processing or transport of petroleum
- Significant modification of a petroleum pipeline
- Significant modification of a facility
- Seismic surveys
- Recovery of petroleum using a subsea installation
- Other surveys
- Operation of a petroleum pipeline
- Operation of a facility
- Drilling
- Construction and installation of a petroleum pipeline
- Construction and installation of a facility
- Any other petroleum-related activity

Legend:
- Oil spill detailed topic of assessment
- Oil spill general assessment
NOPSEMAs Engagement with the National Plan

• On commencement - 1 January 2012:
  - NOPSEMAs integration into the National Plan
  - Renewed focus on consultations between operators and OSROs

• 6 months after commencement - now:
  - Explanatory note published
  - OSCP Guidance

• The future:
  - National Plan Review
Any Questions?
OSCP Guidance and Initiatives
Spill Assessment Engagement Timeline

- **7 November**: NOPSEMA Starts Regulation
  - Interim Guidance Published Rev 0
- **1 January**: APPEA Environment Conference
  - Established need
- **6 March**: Consultation Period (30 days)
  - Included updates from regulatory experience
- **13 April**: Consultation Workshop
  - OSCP Guidance Feedback
- **27 April**: Consultation Workshop
  - Oil Spill Response Workshop
- **28 June**: Regulator Advice Workshop
  - Environmental Consultants Association
- **25 July**: Regulator Advice Workshop
  - Today
- **26 July**: Consolidated Guidance Published
  - Rev 2
  - [Annual Reviews]
• Observed improvement in the quality of submissions

- Oil spill activities to be considered as part of the activity
- Description of the environment that may be impacted
- Objectives/Standards/Measurement Criteria
- Implementation strategy
- Stakeholder consultation
- Compliance is with the whole submission not just the EP
Focus Areas

• Response Framework
• Communication and Consultation in Response
• Coordination of Resources
• Regulatory Matters
Focus Area A
Response Framework and Responsibilities

1. Division of Responsibility
   Duty Holder (title holder / operator), Combat Agency

2. Trans-boundary Spills Impacts
   Commonwealth, State, International

3. Organisational & Response Structures

4. Transitional Arrangements
   Escalation, effective response capability
Focus Area B
Communication & Consultation in Response

- Consultation in preparation to respond: 14
- Consultation during a response: 0
- Responders, Stakeholders, Regulators: 1
- Response communications and information management: 1
- Role of Industry Advisor: 2
Focus Area C
Coordination of Resources

- Oil spill response training and competence
- Equipment availability
  - for multiple operators (more than one spill)
- Access to the oil spill response atlas (OSRA)
- Financial Arrangements
  - insurance & cost recovery, responders & stakeholders
- Waste management issues

6
2
4
1
3
Focus Area D

Regulatory Matters

- EPBC Act Exemption
  - 3
- NOPSEMA key functions during response – Assessment, Inspection, Investigation, Enforcement
  - 5
- Significant Incident Directions
  - 3
Guidance note project – why?

• NOPSEMA have recognised that additional guidance around the Environment Plan Regime is necessary
• Family of guidance notes will replace Interim Environment Plan Preparation Guidance Note
• NOPSEMA is developing other guidance outside of the EP Guidance Note Project
• Initiated process at APPEA environment conference (Nov 2011)
• Interim EP guideline published (replaced previous RET guidance)
• OSCP guideline published
• Perth Workshop on structure and scope (May 2012)
EP guidance note project - objectives

- Consistent with OPGGS(E) Regulations
- Consistent with objective based regime
  - Focus on ‘what needs to be demonstrated’ not ‘how to demonstrate’
- Provide clear guidance on NOPSEMA’s expectations for Environment Plan content
- Avoid regulatory creep
Guidance note project – current work

- NOPSEMA is restructuring guidance notes to better reflect regulations
- Interim guidance note being updated as overview for subsidiary guidance notes being prepared
- NOPSEMA is reviewing its web document structure to make expectations clear (i.e. differentiating regulatory interpretation from general advice)
Guidance note project – Scope

- Key topic areas from Perth workshop:
  - Line-of-sight to regulations
  - ALARP
  - Consultation
  - Risk Assessment processes
  - Performance Objectives, Standards and Measurement Criteria

- Any others identified today....
Any Questions?
Future Activities and Regulatory Reform
Environment Regulations Review

• First major review in 12 years
• Headed by the Department of Resources, Energy and Tourism
• NOPSEMA provide specialist technical input
• Industry comments coordinated through APPEA
• NOPSEMA will coordinate a workshop in August to collate and provide industry input to RET
• Terms of reference finalised and issues paper currently under draft
• Regulatory review process
• Scope of the review
• Review topics identified by NOPSEMA
  – Operator/Titleholder obligations
  – Request for further written information
  – Principle of natural justice
  – Definition of petroleum activity
• Any other areas identified by industry
• **Suggested topics for this workshop**
  – Definitions (Reg 4)
  – Acceptance process and procedure (Div 2.2)
  – Consultation (Div 2.2A)
  – Contents of an Environment Plan (Div 2.3)
  – Revision of an Environment Plan (Div 2.4)
  – Incidents, reports and records (Part 3)
  – Operators of activities (Div 4.2)
Workshop Session
• Several options for streamlining under the EPBC Act currently being explored
• Government response to
  – Productivity Commission
  – Montara Commission of Inquiry
  – EPBC Act Hawke Review
• Liaison with SEWPaC and RET ongoing
• Reduction in duplication for the upstream petroleum sector
• Improvements in environmental regulation for most activities through a single Regulator with industry focus
Legislative Amendments

• Aiming to put forward amendments to the OPGGSA at the spring sitting
• Standardisation of the powers of NOPSEMA inspectors to issue notices and collect evidence
• Polluter pays principle to be enshrined in the Act
• Introduction of Civil Penalties—graduated enforcement regime
• Managed by the Department of Resources, Energy and Tourism
The next 12 months – Assessment & Compliance

• Continued assessments and inspections
  – Further clarification on notification of decisions
• Inherited Environment Plans
• Environmental management workshops
• Environment plan guidance
• Environment regulation review
The next 12 months – Monitoring & Analysis

- Develop guidance notes for:
  - Off the Shelf Monitoring Program (OSMP)
  - Baseline and operational monitoring
- Environmental Impact Monitoring Forum
- Advice – presentations, operator liaison meetings and Regulator articles
The next 12 months- Spill Assessment

‘ensure all appropriate measures are taken to prepare for and respond to an oil pollution incident from offshore petroleum activities’

- National Plan Review
- SpillCon 2013
- Oil Spill Preparedness and Response Forum
Any Questions and Close