

# Industry information session - Financial assurance

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**Environment Division**

Perth: 12 & 13 November 2014

Melbourne: 18 November 2014

- Background and context
- Legislative requirements
- Regulatory approach
- Factors for success and challenges
- Commencement

Timeline	Brief history
1980s	Requirement to maintain insurance (s571) commenced
Up to 2012	Designated authorities administered insurance requirements
2011	Government response to Montara Commission of Inquiry
1 Jan 2012	NOPSEMA commenced
May 2013	OPGGs Act amendments - strengthening and clarification of financial assurance requirement
Mid 2013	Department of Industry released set of detailed draft regulations to administer financial assurance compliance
Nov 2013	OPGGs Act - financial assurance obligation commenced
Feb 2014	Tripartite working group to revise regulatory approach
Oct 2014	Department released revised draft regulations
1 Jan 2015	Expected commencement of amended Environment Regulations

# Legislative requirements

S571(2) OPGGSA (incorporating amendments CMA 2 2013):

*“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 result of:*

- (a) the carrying out of the petroleum activity; or*
- (b) the doing of any other thing for 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.”*

- Amendments provide increased clarity and certainty to existing titleholder obligations
- Reduce the restrictive nature of holding only insurance
- Complemented by, but not limited to, strengthened polluter pays requirements
- FA deals only with extraordinary costs, expenses and liabilities
- [www.industry.gov.au](http://www.industry.gov.au)

# Legislative requirements - Environment Regulations

- Demonstration is a prior condition for acceptance of an environment plan (EP)
- Connects failure to maintain compliance with withdrawal of EP
- Provides transition from current arrangements in to new arrangements
- Integrates financial assurance compliance duty with environmental management law and NOPSEMA's overarching compliance functions

- Tripartite working group
  - DoI regulations
  - NOPSEMA guideline
  - APPEA costs, expenses and liabilities calculation method
- Based on UK financial responsibility model

Financial assurance confirmation in relation to a specific EP submitted to NOPSEMA for acceptance

Submitted to  
NOPSEMA

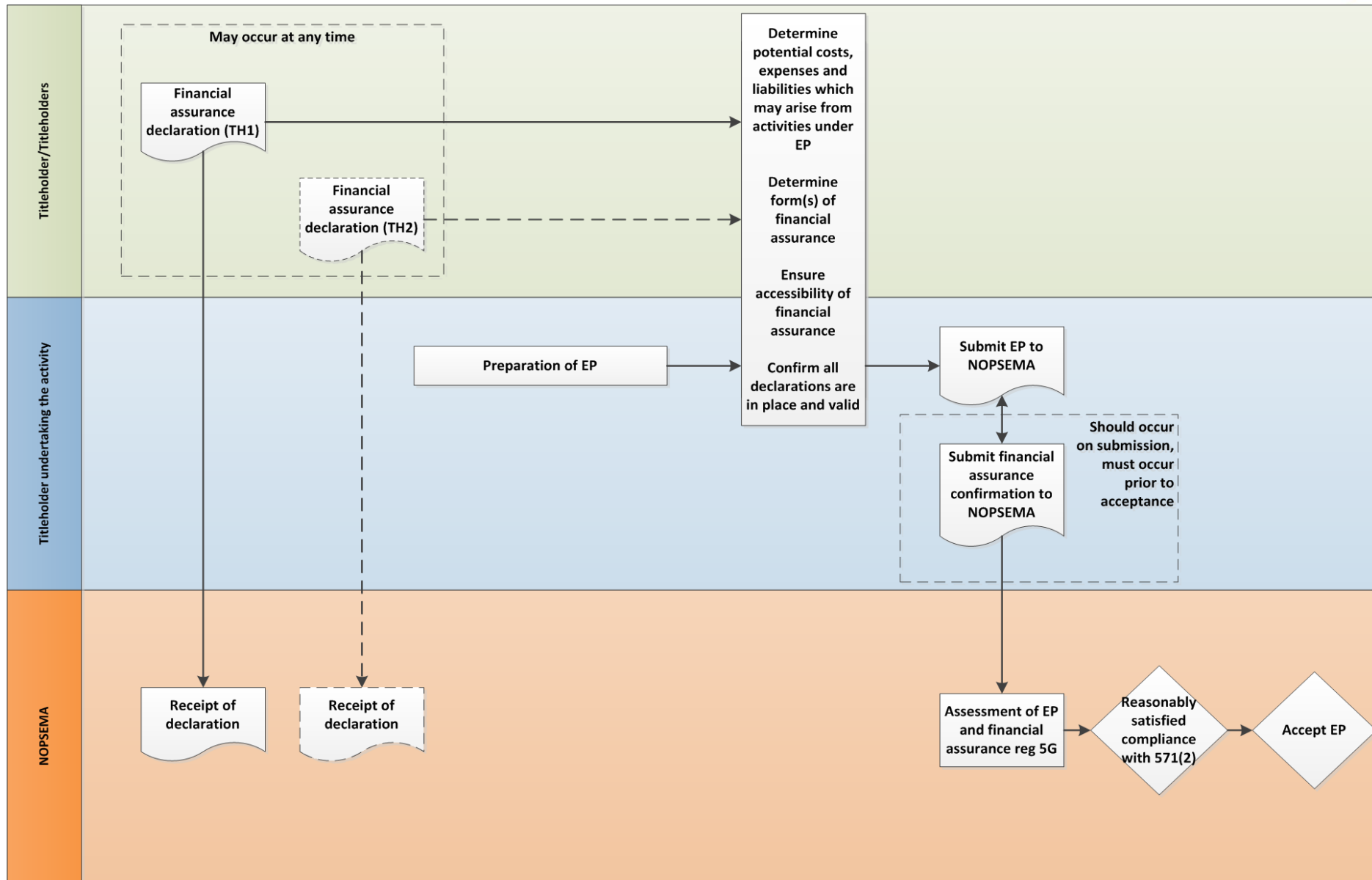
Financial assurance declaration(s)

Internal systems to establish and maintain sufficient financial assurance

Maintained  
by Titleholder

Validated method for calculation of costs, expenses & liabilities





- Regulate in a light-handed, efficient and flexible manner that reflects Government's agenda for minimising regulatory burden on industry
- Objective based regime where onus is on the titleholder to maintain sufficient financial assurance for life of title
- Compliance will be incorporated into annual inspection program

- Declaration submitted to NOPSEMA for all titles
- At time of EP submission, the titleholder must provide a confirmation to enable NOPSEMA to be reasonably satisfied
- Declaration can cover multiple activities across multiple titles
- There must be a confirmation for each EP submitted
- Financial assurance need only be accessible at point where costs, expenses and liabilities may arise
- If the APPEA method is not used, consult early with NOPSEMA as individual assessment and validation will be required

- Limits on application and timeframes for adoption of the APPEA method
- Complexity surrounding titleholder JV arrangements
- Limitations on accessibility - Insurance
- Changes during the assessment process - underestimation of consequence/inappropriate analogues

- EPs in force – required to meet financial assurance duty under S571 OPGGS Act
- EPs submitted prior to 1 January – Regulation 5G of amended regulations does not apply
- EPs submitted after 1 January – Regulation 5G applies and demonstration of financial assurance is pre-condition of acceptance

<b>Activities to 1 January 2015</b>	<b>Timing</b>
NOPSEMA guideline released	3 Nov 2014 (complete)
APPEA release method	Week of 24 Nov 2014
Revised draft regulations to Executive Council for approval	Late 2014
Finalise APPEA method	Dec 2014
Publish final NOPSEMA guideline	Dec 2014
Administration of regulations commences	1 Jan 2015

Thank you

Questions?