

Environmental Inspections

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1. Purpose

This policy document provides an overview of the general principles that the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) applies when undertaking environmental inspections in accordance with the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (OPGGGS Act).

2. Scope

The OPGGS Act defines NOPSEMA's functions and gives NOPSEMA inspectors the power to conduct environmental inspections (hereafter referred to as inspections) to determine whether:

- an environmental law (as defined in Schedule 2A of the OPGGS Act) has been, or is being, complied with
- information given in compliance, or purported compliance, with an environmental law is correct.

This policy covers NOPSEMA inspector's approach to conducting inspections and specifically addresses:

- the purpose of inspections
- the manner in which inspections are planned and undertaken by NOPSEMA inspectors
- communication with the titleholder including notice of intent to inspect and reporting.

Inspections undertaken for the purpose of conducting an investigation relating to the contravention or possible contravention of environmental law are **not** within the scope of this Policy.

Inspections conducted by NOPSEMA in relation to compliance with the Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2011 and the Offshore Petroleum and Greenhouse Gas Storage (Safety) Regulations 2009 are **not** included in the scope of this policy. This policy is complementary to and should be read in conjunction with N-02000-PL1523 – Inspection.

3. Relevant Legislation

- *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (OPGGGS Act)
- Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2009 (Environment Regulations)
- Regulatory Powers (Standard Provisions) Act 2014 (Regulatory Powers Act).

4. Purpose of environmental inspections

Inspections are part of NOPSEMA's function to develop and implement effective monitoring and enforcement strategies to secure compliance by persons with their obligations under environmental law.

In order to ascertain whether an environmental law has been or is being complied with, NOPSEMA inspectors will gather information relevant to the inspection utilising powers under Schedule 2A and Part 6.5 of the OPGGS Act and Part 2 of the Regulatory Powers Act. Following this, NOPSEMA inspectors will analyse the information gathered and make conclusions as to whether the titleholder is compliant with environmental law.

5. Risk based planned inspections

5.1. Inspection selection and targets

NOPSEMA identifies and schedules inspections into an annual inspection program which is updated on a quarterly basis. Programming of inspections is undertaken using a risk based approach in conjunction with the consideration of other relevant factors outlined in section 5.2. This approach ensures coverage and risk based prioritisation of inspections across the complete range of petroleum activities and titleholders regulated by NOPSEMA.

Environmental risk factors used to inform inspection programming include, but are not limited to, the following:

- the environment that may be affected by planned activities and/or unplanned events including matters protected under Part 3 of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act)
- socio-economic values and sensitivities
- target hydrocarbon type (where applicable)
- industry trends in recordable and reportable environmental incidents.

This risk based approach has allowed NOPSEMA to establish targets for inspection frequency as outlined in Table 1 below.

Table 1: Environmental inspection targets

Inspection category	Definition	Target
New titleholder	Inspections specific to a titleholder with limited or no experience in undertaking an activity in Commonwealth waters and who may be undertaking a petroleum activity for the first time.	1. All new titleholders undertaking an exploration or development activity. Frequency: At least once prior to or during the first activity.
Development activities	Activities that involve the production of hydrocarbons (including construction, installation, commissioning and decommissioning stages), and may include fixed platforms, floating facilities, pipelines and associated infrastructure.	2(a) All titleholders undertaking a development activity involving the production of Group III, IV or V oils ¹ . Frequency: At least once in a 12 month period.
		2(b) Opportunistically, as informed by the risk based approach outlined in this section, for all other development activities not inspected under target 2(a).

¹ NOPSEMA also carries out inspections on an 'as needs' basis, where information obtained indicates a more immediate need to test titleholder compliance.

Inspection category	Definition	Target
Drilling activities	Inspection of production and exploration drilling activities.	3(a) All titleholders undertaking drilling activities targeting Group III, IV or V oils ² . Frequency: Prior to or during the activity.
		3(b) Opportunistically, as informed by the risk based approach outlined in this section, for all other drilling activities not inspected under target 3(a).
Seismic and other surveys	Inspection of survey activities that involve the acquisition of geophysical / geotechnical data using acoustic energy.	4(a) All titleholders undertaking a seismic activity that overlaps habitat critical to survival or biologically important areas ³ during an important life cycle stage ⁴ for migratory or threatened species listed under the EPBC Act. Frequency: At least once prior to or during the activity.
		4(b) All titleholders undertaking seismic activities where specific controls, as defined in an accepted environment plan, are required to manage interactions with a particular socio-economic value or sensitivity. Frequency: At least once prior to or during the activity.
		4(c) Opportunistically, as informed by the risk based approach outlined in this section, for all other survey activities that are not inspected under targets 4(a) or 4(b).

NOPSEMA may modify or reprioritise the annual inspection program on a case-by-case basis in accordance with the approach detailed above.

² As defined in International Tanker Owners Pollution Federation Ltd (ITOPF) 'Fate of Marine Oil Spills' Technical Paper 2 2011. Sourced from <http://www.itopf.com>.

³ Habitat critical to survival: as described / defined in Recovery Plans published on the Department of the Environment and Energy (DOEE) website

Biologically important area: as per data in the National Conservation Values Atlas on the DOEE website.

⁴ Important life cycle stages are informed by Recovery Plans or Conservation Advices published on the DOEE website for relevant listed migratory or threatened species and may include migration, feeding, breeding or calving habitats.

5.2. Financial assurance compliance monitoring

Financial assurance compliance monitoring may be undertaken during an environmental inspection programmed in accordance with NOPSEMA's inspection targets described in Table 1. Inspections that include a financial assurance focus will involve inspectors applying a reasonable satisfaction test in relation to a titleholder's duty in section 571 of the OPGGS Act.

Where relevant, the inspection will inspect systems in place to identify, monitor and maintain the level of financial assurance required. Titleholders should take into account the information provided in *NOPSEMA Policy Financial Assurance Requirements for Petroleum Titles PL1780* which establishes requirements for financial assurance compliance.

NOPSEMA will seek to confirm compliance with financial assurance obligations during inspections for activities where a demonstration is yet to be made to NOPSEMA. This may include requesting titleholders to provide information as part of the inspection, such as declaration of financial assurance compliance (see Policy PL1780).

5.3. Inspection scoping

Inspections will be scoped on the following factors and inputs:

- NOPSEMA focus issues based on industry performance data or high risk aspects of activities across the industry
- areas of specific activities that generate a significant portion of the environmental risk, and those control measures and elements of the environmental management system that have the most influence on risk
- titleholder environmental performance
- environmental incidents and complaints
- investigations and enforcement actions
- commitments made by the titleholder regarding recommendations from previous inspections
- status of titleholders' financial assurance in accordance with section 571 of the OPGGS Act.

6. Conducting environmental inspections

NOPSEMA will schedule inspections at offshore premises, registered business premises or both in accordance with the inspection programming schedule. At its discretion, NOPSEMA may also undertake 'offsite' inspections in relation to an offshore premises and regulated business premises from a NOPSEMA office. NOPSEMA will take reasonable steps to provide the titleholder with advance written notice of its intent to inspect including the preferred dates and times for the inspection.

During inspections NOPSEMA inspectors will primarily communicate with the titleholder's representative. At offshore premises, NOPSEMA inspectors may also communicate with personnel from all levels of the workforce engaged in the petroleum activity. At regulated business premises, NOPSEMA inspectors may also communicate with any other person representing the titleholder.

Inspections may take several days and will often incorporate overnight stays on offshore petroleum premises. Titleholders are required to provide reasonable assistance and facilities for the effective undertaking of the

inspection. In the case of offshore inspections this will include transport between the offshore premises and the nearest port, accommodation and meals.

In some circumstances, it may be deemed appropriate to undertake an inspection at premises, other than a regulated business premises or offshore premises. To ensure appropriate conduct of inspections and clarity for titleholders and NOPSEMA in these circumstances, NOPSEMA will seek to obtain a monitoring warrant under Part 2 of the Regulatory Powers Act to authorise entry for the purpose of monitoring compliance with environmental law. Where it is not considered practicable for NOPSEMA to obtain a monitoring warrant NOPSEMA may request that the occupier of a premises provide written voluntary consent for NOPSEMA inspectors to undertake an inspection.

6.1. Inspection approach

NOPSEMA's inspections do not inspect every element of a petroleum activity; rather they operate on a quality assurance basis. Inspections are a pre-scoped and a sampled evaluation of the titleholder's compliance with requirements under environmental law. This may include, but is not limited to, one or more of the following:

- establishing whether the titleholder is carrying out the activity in accordance with the accepted environment plan
- verifying whether legislative requirements for notifications, reporting, recording information and maintaining financial assurance have been met
- confirming that actions arising from recommendations of previous inspections have been completed
- establishing whether titleholders for which the activity relates are continuing to comply with their duties in accordance with section 571 of the OPGGS Act to maintain sufficient financial assurance (refer to Guideline GL1381).

6.2. Inspection brief

Inspection briefs will be provided to the titleholder, their nominated representative and/or the occupier of the premises prior to commencing an inspection. NOPSEMA will generally issue an inspection brief not less than two weeks prior to the proposed date of inspection.

The inspection brief outlines the objective, scope and timetable for the inspection such that titleholders have an understanding of the intent of NOPSEMA's inspection and have sufficient notice to nominate a representative and provide reasonable assistance and facilities for the conduct of the inspection.

NOPSEMA inspectors may deviate from an inspection brief during an inspection as a result of observations during the inspection or at their professional discretion.

6.3. Inspection team

Inspections will generally be conducted by a team consisting of at least two NOPSEMA appointed inspectors, one of whom is the designated Lead Inspector.

6.4. Conduct of the inspection

NOPSEMA inspectors will present their identity cards to the titleholder's nominated representative or the occupier of the premises (whichever is relevant) at the commencement of an inspection, and will conduct an entry meeting to inform them of NOPSEMA's intentions during the inspection.

Information obtained by NOPSEMA through inspection powers is treated as confidential and utilised only for the purposes it was collected. For further information refer to NOPSEMA's Privacy Policy at the following link <http://www.nopsema.gov.au/privacy/>.

7. Inspection reporting

Upon completion of an inspection, NOPSEMA will provide a report to the titleholder detailing the findings, conclusions and any recommendations from the inspection, along with the reasons for those conclusions and any recommendations made. NOPSEMA may, in writing, request the titleholder to provide NOPSEMA with details of action proposed to be taken with respect to the inspection report conclusions and recommendations. NOPSEMA will specify a reasonable period in which the titleholder is to respond to the request. NOPSEMA may seek information to verify the titleholder's progress in addressing recommendations raised in the inspection report by the agreed due date.

8. Related documents

N-02000-PL1523 - Inspection Policy

N-04730-PL1780 - Financial Assurance Policy