

Regulatory Advice Statement

Reference case title: Marine Biosecurity Management of Vessels Servicing the Offshore Resources Industry – An Environment Plan Reference Case- version 2.0 (submitted: 2 October 2020)

Reference case author: Maritime Industry Australia Limited

Date of advice: 22-10 2020

Purpose of this advice

This advice is provided as part of NOPSEMA's function to advice on matters relating to offshore petroleum environmental management, which is legislated in Section 646 of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*.

This regulatory advice statement is intended to assist with the application of the above environmental reference case to environment plans for offshore petroleum activities. The content requirements and acceptance criteria for an environment plan are set out in the Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2009 (the Environment Regulations).

This regulatory advice statement allows NOPSEMA to communicate to titleholders and stakeholders the extent to which the reference case fulfils content requirements for an environment plan and aligns with NOPSEMA guidance, and to highlight any constraints or limitations to be aware of when applying the reference case to an environment plan.

In summary, for the above environmental reference case this regulatory advice statement outlines:

- the extent to which the reference case delivers on its own scope,
- which of the required environment plan contents it provides,
- consistency of the reference case with NOPSEMA guidance, and
- any constraints or limitations in using the reference case.

This reference case does not remove the obligation for a titleholder to meet contemporary legislative requirements, to thoroughly understand the environmental impacts and risks of a petroleum activity, and reduce them to levels that are acceptable and as low as reasonably practicable.

This reference case may assist titleholders in developing parts of an environment plan, but the environment plan as a whole must meet the acceptance criteria in the Environment Regulations before it is approved by NOPSEMA. Using the reference case is voluntary for titleholders, and will only be considered by NOPSEMA in an assessment if referred to by the titleholder.

NOPSEMA'S role in reference case development

NOPSEMA supports the reference case concept, and the potential value that this approach could provide for industry in improving efficiency and achieving consistent, good-quality environment plan content.

NOPSEMA independently assessed the content of the reference case to determine the level of suitability to meet the requirements of the acceptance criteria in the Regulations.

The extent to which the reference case delivers on its own scope

The biosecurity reference case provided by MIAL considers the possible and variable risks of introducing and translocating non-indigenous marine species (NIMS) associated with the movement of vessels and equipment deployed from those vessels into and/or within Australia for the purpose of providing services to the Australian offshore resources industry, and the measures vessel operators and titleholders should adopt to mitigate those risks to as low as reasonably practical (ALARP) and acceptable levels. Specifically the reference case addresses the risks of NIMS associated with ballast water and biofouling. The scope to which the reference case applies was both geographically and operationally broad encompassing generally all vessels providing services to the offshore resources industry (not 'topside' biosecurity management of international vessels) within Australian waters including state and Territory waters, to the outer limits of Australia's exclusive economic zone (EEZ), including the joint petroleum development area (JPDA).

Overall the reference case delivers a suitable evaluation of impacts and risks and appropriate control measures for:

- the management of ballast water risks; and
- the biofouling risks associated with vessels coming from within the same region (locally-sourced) operating in less sensitive areas (e.g. deep water) and alongside low risk facilities (e.g. facilities with no known established NIMS).

To apply the reference case, titleholders will need to demonstrate in their environment plans that the control measures detailed in the reference case are appropriate for the specific activity and circumstances being presented in the environment plan. Where vessels are mobilised from international or interstate waters and operations are proposed in or near shallow, sensitive environments titleholders will need to consider further control measures or provide additional information about how the biofouling management plan reduces associated impacts and risks to ALARP and acceptable levels.

Jurisdictional Scope

The operational scope of the reference case is said to be within Australian waters including state and Territory waters, to the outer limits of Australia's EEZ, including of the JPDA. Titleholders, mobile offshore drilling unit (MODU) operators and vessel contractors servicing the offshore industry need to be aware of, and comply with, relevant biosecurity requirements (including biofouling management requirements) that apply when moving into and between Commonwealth and state/territory jurisdictions. It is important to note that NOPSEMA only regulates offshore petroleum and greenhouse gas activities in Commonwealth waters and cannot provide advice on risk assessment and management measures specific to state/territory waters. As such, the comments in this Regulatory Advice Statement are specific to offshore petroleum activities in title areas in Commonwealth waters, and do not apply to state/territory jurisdictions or the JPDA.

Refer to the 'Reducing marine pest biosecurity risks through good practice biofouling management' information paper (IP1899) (<https://www.nopsema.gov.au/assets/Environment-resources/A715054.pdf>) Table 1 (page 14) for further information on jurisdictional boundaries.

Australian Marine Parks (AMPs)

The proposed scope of the reference case includes activities/facilities located within Commonwealth and state/Northern Territory waters. The reference case specifies that when operating in close proximity to

(and within) AMPs, titleholders should act in accordance with relevant marine park management plans and consider if additional control measures are required. The reference case does not provide a location specific evaluation of the potential consequences to these areas.

Titleholders must have regard to relevant AMP management plans during the environment plan preparation phase. This is important to identify the relevant park-specific requirements and considerations to ensure that the proposed activity is not inconsistent with requirements of a management plan.

In addition, consultation with the Director of National Parks (DNP) is required during the preparation of an environment plan regarding the petroleum activity and the potential impacts on values of the AMP. A location and activity specific impact and risk evaluation, along with DNP consultation, is necessary to ensure consistency with relevant AMP management plans and to meet regulatory requirements in these geographical locations.

Key Ecological Features (KEFs) Aquaculture, Mariculture Facilities and other shallow features

The proposed scope of the reference case is intended to include activities located within and in close proximity to biologically important areas, KEFs and critical aquatic resources, such as aquaculture, mariculture and wild catch fisheries.

KEFs are considered part of the Commonwealth marine area (a matter of national environmental significance) and are therefore important considerations in decision making. Some KEFs are located in relatively shallow waters with high species richness, high productivity and aggregations of marine life that are often unique to the area. They are therefore particularly vulnerable to NIMS establishment depending on the benthos. Some KEFs are identified in Marine Bioregional Plans and NOPSEMA must have regard to these plans when making a decision.

The establishment of NIMS in the Commonwealth marine area may result in significant impacts to the viability of socio-economic commodities such as aquaculture, fishing and tourism as well as potentially widespread ecological impacts. When operating in proximity to KEFs and aquaculture, mariculture facilities and other shallow features the titleholder should consider the individual risks and impacts of their activity and whether extra or specific NIMS control measures may be warranted and included in the biofouling management plan and/or the environment plan.

International/Interstate Sourced Vessels

The scope of the reference case is intended to include all vessels (international and interstate sourced). With regards to biofouling risks, vessels sourced from international and interstate sources could have higher risks in comparison to locally sourced vessels depending on where they have come from and how they have been operating. Titleholders may need to include specific details of the additional control measures which are within the Biofouling Management Plan (BMP) that will be in place to manage the additional risk.

There are a number of extra control measures that could be considered/evaluated in an environment plan to ensure all risks from NIMS remain acceptable and ALARP. Higher risk vessels (such as those sourced internationally and interstate) may require additional control measures such as dry-docking, inspection, cleaning and antifouling renewal, which needs to be specified within the biofouling management plan and/or the environment plan. Where the risk is not satisfactorily minimised, titleholders need to prescribe other control measures such as, reducing time alongside, reducing time at anchor and/or reducing time

operating at low speeds to be applied to mitigate NIMS risks in addition to what is described in the reference case.

Equipment

The scope of the reference case is intended to cover the possible and variable risks of introducing and translocating NIMS associated with the movement of vessels and equipment deployed from those vessels. However, the biofouling risks associated with equipment were not fully evaluated in this reference case and as such further evaluation may be required in an environment plan to address the specific NIMS risks associated with equipment. Titleholders may need to include specific details of the additional control measures associated with equipment/immersible equipment which are within the BMP that will be in place to manage the additional risk.

The 'National biofouling management guidelines for the petroleum production and exploration industry' (specifically section 3) provides additional information and addresses the challenges associated with the management of immersible equipment and associated risks of different types of equipment.

Which of the required environment plan contents this reference case provides

Division 2.3 of the Environment Regulations specifies the required contents of an environment plan. The information in an environmental reference case may fulfil one or more, or part of one, of the required items of content.

Advice on the extent to which content requirements are fulfilled by the above reference case is listed in the table below. All other content requirements of the Environment Regulations must be fulfilled by the environment plan.

Regulation	Environment plan content requirement	Advice on using this reference case
13(4)	The environment plan must: (a) describe the requirements, including legislative requirements, that apply to the activity and are relevant to the environmental management of the activity; and (b) demonstrate how those requirements will be met	The information provided in the reference case is sufficient to meet this regulatory requirement as it relates to marine biosecurity management from vessels.
13(5)	The environment plan must include: (a) details of the environmental impacts and risks for the activity; and (b) an evaluation of all the impacts and risks, appropriate to the nature and scale of each impact or risk; and (c) details of the control measures that will be used to reduce the impacts and risks of the activity to as low as reasonably practicable and an acceptable level	<u>Ballast water</u> : the information provided in the reference case is sufficient to meet this regulatory requirement. <u>Biofouling</u> : The information provided in the reference case is sufficient to meet this regulatory requirement for locally sourced vessels operating in less sensitive areas with low risk profiles. This reference case may not be sufficient to address the NIMS risk for international and interstate sourced vessels or vessels interacting within or in close proximity to KEFs, AMPs and

	<p>shallow features of the Commonwealth Marine Area. In these circumstances, an environment plan must include an evaluation and demonstrate how the reference case is applicable and if not, provide additional control measures that will be implemented to ensure all impacts and risks are acceptable and ALARP.</p>
<p>13(7) The environment plan must: (a) set environmental performance standards for the control measures identified under paragraph (5)(c); and (b) set out the environmental performance outcomes against which the performance of the titleholder in protecting the environment is to be measured; and (c) include measurement criteria that the titleholder will use to determine whether each environmental performance outcome and environmental performance standard is being met.</p>	<p><u>Ballast water</u>: The reference case provides sufficient environmental performance (outcomes, standards and measurement criteria) to address risk associated with the introduction of NIMS from ballast water. <u>Biofouling</u>: The environmental performance provided in the reference case are sufficient to address the requirements of Regulation 13(7)(b). Higher risk activities (i.e. vessels that are not locally sourced and interacting with KEFs, AMPs and shallow features of the Commonwealth Marine Area) may require additional environmental performance.</p>

Consistency of the reference case with NOPSEMA guidance

The reference case provides some details of the environmental impacts and risks and associated control measures for the introduction of NIMS from locally sourced vessels operating in less sensitive areas with low risk profiles which would assist a titleholder in developing an environment plan. The reference case reflects the level of detail and breadth of considerations recommended by NOPSEMA in the following guidance:

- Environment plan decision making guideline (GL 1721)
- Environment Plan Content Requirements guidance note (GN1344)
- For NIMS risks associated with international and interstate sourced vessels, in KEFs, AMPs and more sensitive areas, the reference case does not adequately address the following guidance:
- Petroleum activities and Australian marine parks guidance note (GN1785)
- Reducing marine pest biosecurity risks through good practice biofouling management information paper (IP1899)

Any constraints or limitations in using the reference case

In its current form this reference case may be applied to cases where the vessels sourced for the purposes of providing services to the Australian offshore resources industry come from local sources in areas that are

considered low risk (i.e. no known established NIMS) going to less sensitive areas (e.g. deep water¹). When using the reference case the following limitations and considerations would need to be addressed during the preparation of an environment plan:

- Vessels sourced from international or higher NIMS risk profile: the source of a vessel is an important consideration in the risks associated with NIMS. This may require additional considerations in an environment plan with additional control measures.
- Equipment on vessels: the NIMS risks associated with equipment such as anchors, ROVs, seismic streamers and others may require additional risk assessment to inform decisions on the need for additional control measures.
- Activities in high risk areas: activities that take place in high risk areas (such as in shallow water (<50 metres), near shallow water shoals, KEFs, AMPs, etc) may require additional site specific considerations in an environment plan to ensure that all risks are managed to acceptable and ALARP.
- In general, users of this reference case will need to consider the relevance and suitability of the generic information provided in the reference case to the specific circumstances of their activity. The environment plan should provide an evaluation of how the reference case is applicable to their circumstances and when/where additional control measures will be implemented.

Timeframe for expiry of advice

This regulatory advice statement is valid for three years from the date of advice (above). Before this timeframe expires, NOPSEMA recommends that the author reviews the reference case to reflect any changes in knowledge, practices or requirements, and requests a new regulatory advice statement from NOPSEMA.

This regulatory advice statement is provided by the NOPSEMA Environment Manager – Seismic & Production Operations, as signed below.

David Christensen

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¹ For the purpose of this Regulatory Advice Statement NOPSEMA considers deep water to mean >50 metres. This is based on similar requirements for ballast water exchange specified in the Biosecurity (Ballast water and sediment) determination 2017.