

Inspections: Monitoring and securing compliance (DRAFT)

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1. Purpose and scope of this policy

The purpose of this policy is to set out the principles the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) applies to monitoring and securing compliance via inspections conducted under Schedule 2A, 2B and 3 of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (the OPGGS Act) and compliance monitoring powers in Part 2 of the *Regulatory Powers (Standard Provisions) Act 2014* (RPSP Act). This policy includes Environmental inspections & Oil Pollution Environmental inspections, Well Integrity inspections and Occupational Health and Safety inspections in relation to offshore petroleum and greenhouse gas facilities, activities and wells. A NOPSEMA inspection may involve the use of one or more of these sets of powers and in any combination.

This policy does not address investigations or enforcement, please refer to NOPSEMA's policies on investigation (N-03000-PL1697) and enforcement (N-05000-PL0067) for further information.

2. Purpose of inspections

Inspections are a critical component of NOPSEMA's compliance strategy. NOPSEMA primarily undertakes compliance monitoring inspections to:

- Establish the extent to which dutyholders¹ are compliant with listed NOPSEMA laws², and in so doing are obtaining assurance for NOPSEMA that the risks to people, the impacts and risks to the environment and risks to well integrity are being reduced to levels that are as low as reasonably practicable (and acceptable for environmental impacts risks).
- Determine whether information given in compliance, or purported compliance, with listed NOPSEMA laws is correct.
- If there is a declared oil pollution emergency:
 - Determine whether the oil pollution emergency provisions of a declared environment plan have been or are being complied with.
 - Determine whether a significant incident direction has been or is being complied with.

Inspections are also utilised as a means to support NOPSEMA's functions of:

- promoting the occupational health and safety of persons engaged in offshore operations.

¹ "Dutyholders" primarily relates titleholders and operators of facilities but also includes: persons in control of parts of a facility or particular work, employers, manufacturers, suppliers, persons erecting facilities or installing plant, and persons in general, with respect to occupational health and safety (OPGGS Act, schedule 3, part 2, Division 1), and persons under contract, arrangement or understanding.

² The meaning of listed NOPSEMA laws is set out in OPGGS Act, chapter 6, Part 6.5, Division 1, section 601 and includes specific chapters, parts and divisions of the Act, Schedules 2A, 2B, & 3, and the associated safety, environment and well integrity regulations.

- advising personnel on occupational health and safety, well integrity and environmental management.
- ongoing development of compliance monitoring strategies.

3. Principles applied to monitoring and securing compliance via inspections

NOPSEMA applies the following principles across inspection programming, planning, conduct, reporting and follow-up of dutyholder actions arising from inspections:

- **Risk-based** Inspections target the highest risks and impacts for greatest regulatory effect, focussed on risk-reduction and impact-reduction outcomes
- **Fair and accountable** Inspections are conducted within legislative powers, and are conducted according to procedures that promote impartial (without bias), appropriate and consistent processes and ensure fairness
- **Informed and relevant** Inspection conclusions are based on the facts of the situation. NOPSEMA inspectors are experienced and technically competent regulators, able to make an informed conclusion
- **Proportionate** The degree of follow-up on dutyholder actions is proportionate to the nature and scale of the risk or impact associated with the non-compliance and does not unnecessarily impede the effective and efficient operations of regulated entities
- **Transparent and clear** NOPSEMA clearly describes the scope and purpose of each inspection and provides conclusions with the reasons for the conclusions clearly set out in our reports.

4. Establishing inspection priorities

NOPSEMA aims to strike a balance between visible and regular compliance monitoring and securing compliance – commensurate with the inherently high-risk nature of the industry it regulates – with potential for loss of life and significant environmental impact – and the need to focus and target resources on areas of higher risk and/or greater likelihood of non-compliance.

NOPSEMA's inspection programming is primarily driven by consideration of inherent and emerging risks (to people, the environment, well integrity and compliance) informed by regulatory intelligence obtained through assessments, inspections, investigations, notifications, and liaison with domestic and international regulators. NOPSEMA's inspection programming also factors in compliance history, attitude and behaviour of dutyholders, strategic factors and external pressures such as financial pressures, heightened public interest and latent risks as set out in Table 1 below.

Table 1 - Risk Factors

Risk Factor	Description
Complexity	NOPSEMA considers the complexity of the facility, activity, and well including but not limited to its size and scale, novelty of methods or equipment, process complexity, the number of people or parties involved, number and complexity of risk controls.
Stage of life	NOPSEMA considers that certain 'stages of life' are inherently more complex and therefore may carry greater risk (each for different reasons). These periods of greater risk are transitory and generally involve a change from steady-state operations. These include construction/installation, drilling, commissioning, major modification, moving beyond design life (or design life extension), cessation of production and decommissioning
Responsible Party factors	NOPSEMA considers a range of factors relating to the compliance history, attitude, and responsiveness of dutyholders, applying more compliance effort on dutyholders with poor performance on compliance history, attitude and responsiveness and less effort on dutyholders with relatively good performance in this area.
Change of Workforce	NOPSEMA considers intelligence and information available regarding changes to a dutyholder's workforce and reports of unusual changes in approach or capacity of the workforce, including switches between outsourcing vs internal expertise, contracting, manning levels and workforce turnover.
Change of Dutyholder	NOPSEMA considers a change of dutyholder to represent a period of increased risk as the new dutyholder comes up to speed with the specifics of the facility and the activities being undertaken. Changes to dutyholder could be because of asset sale or transfer or a formal change to the Titleholder or Operator.
Experience	NOPSEMA considers the experience of the dutyholder in the offshore petroleum industry, operating within the OPGGSA regime (i.e., in the Commonwealth waters of Australia) and their experience in undertaking the specific activity provided for in their permissioning document.
Emerging issues	NOPSEMA looks both within Australia and overseas at incidents, developments or other emerging issues that may indicate an increased or new risk for facilities, activities and wells in our regime.
Impacts or risks above the norm	NOPSEMA considers intelligence and information that indicates that risks or impacts – to people or to the environment – are or may be raised relative to what NOPSEMA typically sees for that dutyholder or for an equivalent type of activity or facility, in its experience.
Process safety issues	NOPSEMA considers intelligence and information that indicates deficiencies associated with the development, implementation or monitoring of process safety management.
Human Factors	NOPSEMA considers intelligence and information that indicates deficiencies associated with the effective consideration of human factors.
Psychosocial Risks	NOPSEMA considers intelligence and information that indicates elevated levels of job level and/or organisational level psychosocial hazards that can adversely impact performance of critical human tasks.

NOPSEMA has also set a baseline, or minimum frequency of Occupational Health and Safety (OHS), Environmental (ENV) and Well Integrity (WI) inspections associated with facilities, activities and wells as set out in Table 2 below.

Table 2 - Baseline inspection frequencies

Type of regulated entity	Baseline frequencies
Dutyholders (OHS/ENV/WEL)	New to the regime with an approved permissioning document will be inspected in the first year of activity commencement
Production facilities (OHS)	<ul style="list-style-type: none"> • Manned – Once a year • Not Normally Manned – Once every two years • Ceased Production (hydrocarbon free) – Once every five years (safety case revision cycle)
Pipeline facilities (OHS)	<ul style="list-style-type: none"> • If connected to facility - Once every two years • If not connected - Once every five years (safety case revision cycle) • Ceased Production (hydrocarbon free) – Once every five years (safety case revision cycle)
MODUs/drilling (OHS)	<ul style="list-style-type: none"> • The shorter of once per campaign or once per year of ongoing activity
Vessel Facilities (OHS)	<ul style="list-style-type: none"> • Nil, risk-driven only
Diving (OHS)	<ul style="list-style-type: none"> • Nil, risk driven only (driven by submission of Diving Start-up Notices)
MODU/drilling – exploration wells (WI)	<ul style="list-style-type: none"> • At least one well per exploration campaign.
MODU/drilling – Development wells & intervention (WI)	<ul style="list-style-type: none"> • Nil, risk-driven only.
Wells (Production & suspended) (WI)	<ul style="list-style-type: none"> • Once every five-years (Well Operations Management plan revision cycle)
Production and pipeline activities (ENV)	<ul style="list-style-type: none"> • Once during commissioning • Once every five-years (Environment Plan revision cycle)
MODU/drilling – Exploration activities (ENV)	<ul style="list-style-type: none"> • At least once per exploration campaign.
MODU/drilling – Development wells & intervention (ENV)	<ul style="list-style-type: none"> • Nil, risk-driven only
Wells (Production & suspended) (ENV)	<ul style="list-style-type: none"> • Once every five-years (Environment Plan revision cycle)
Vessel activities (ENV)	<ul style="list-style-type: none"> • Nil, risk-driven only
Seismic activities (ENV)	<ul style="list-style-type: none"> • Nil, risk-driven only

NOPSEMA develops and maintains an annual (calendar year) inspection program. The program is calibrated to minimise timing and resource conflicts prior to being reviewed and confirmed by NOPSEMA's Regulatory managers. The program is reviewed and updated at least quarterly.

NOPSEMA uses its regulatory intelligence to identify changes in the risk factors used to derive the NOPSEMA Inspection Program and will make changes to the program, as required, in order to focus inspection resources at the areas of highest risk.

NOPSEMA will typically provide dutyholders with a summary of the inspection program as it applies to their facilities, activities and wells on a quarterly basis. However, this does not preclude NOPSEMA conducting additional inspections at short notice, as the need arises. Details of individual inspections will be provided to dutyholders via an Inspection Brief prior to undertaking the inspection.

5. Conducting inspections

While the legislation allows a NOPSEMA Inspector to exercise inspection powers at any time and of their own volition, it is NOPSEMA's policy that Inspections are undertaken at the direction of NOPSEMA, and in accordance with this policy.

The legislation defines locations where NOPSEMA may exercise inspection powers – which include (but is not limited to): at an offshore facility, offshore premises and a dutyholder's regulated business premises. In certain circumstances, inspections can be conducted remotely. NOPSEMA will determine the most appropriate place to conduct the inspection considering the relevant laws that apply, the scope and purpose of the inspection as well as logistical constraints.

An inspection starts when a brief – usually written but may be verbal – is provided to the dutyholder.

NOPSEMA inspections may apply a sampling approach to form a view on whether risk control measures are implemented, functional, maintained, audited, and personnel are trained and competent. Sampling may be applied to personnel, management system documents (policies, procedures, work instructions), records, hardware and software at sufficient levels to support a reasonable conclusion regarding the compliance (or not) of that control measure and, at a gross level, the risks potentially associated with conclusions regarding non-compliance.

A NOPSEMA Inspection is not an audit and does not seek to establish the full extent of compliance, the definitive causes of non-compliance or the associated level of risk – this is and remains the obligation of the dutyholder (if NOPSEMA seeks to understand these things, we do an investigation, see Investigation Policy for further information). Rather, NOPSEMA will seek to test systems and controls and will ask for evidence and documentation to support that test and not rely on verbal assurance (a 'show, don't tell' policy).

Inspections are conducted by a team consisting of at least two NOPSEMA Inspectors, appointed under section 602 of the OPGGS Act, one of whom is designated as the lead inspector for the inspection. On occasion, NOPSEMA may undertake an inspection with representatives from other organisations.

The OPGGS Act and associated regulations provide NOPSEMA Inspectors with powers to conduct inspections, including powers to require reasonable assistance from dutyholders. NOPSEMA considers that reasonable assistance may include, but is not limited to, travel to a facility and the provision of workspace, accommodation and meals during an offshore inspection, or provision of workspace and access to systems and personnel for onshore inspections.

The OPGGS Act requires that an inspection report includes the NOPSEMA inspector's conclusions from conducting the inspection and the reasons for those conclusions, and any recommendations that the NOPSEMA inspector wishes to make arising from the inspection. The NOPSEMA Inspector must provide the report to NOPSEMA.

6. Securing Compliance

It remains the responsibility of the dutyholder to maintain compliance at all times, and where non-compliance is detected, it remains the responsibility of the dutyholder to take timely and appropriate action to return to compliance and prevent recurrence.

As well as providing critical information to NOPSEMA regarding compliance of dutyholders, the report also contains information of relevance and use to the dutyholder. To this end, NOPSEMA is obliged under law to provide dutyholders (and where applicable associated dutyholders) with a copy of the NOPSEMA Inspector's inspection report. NOPSEMA will also provide a cover letter in which NOPSEMA may highlight issues including but not limited to:

- Non-compliance that indicates significant risk
- Systemic non-compliance
- Failure to take timely/effective action regarding previously identified non-compliance.

For conclusions relating to non-compliance, where NOPSEMA is reasonably confident that the dutyholder is capable and willing to investigate and address the non-compliance in a timely manner, NOPSEMA will either provide advice and recommendations on matters the dutyholder should consider and/or will request the dutyholder to provide details of the actions the dutyholder has or intends to take to:

- manage the immediate risks
- establish the underlying cause(s) of the non-compliance
- remediate the non-compliance (return to compliance); and
- prevent its reoccurrence (confirm the remedial actions undertaken were effective).

The level and extent of details requested will be commensurate with the nature and seriousness of the non-compliance.

If a dutyholder fails to return to compliance in the agreed timeframe and/or if new information becomes available, NOPSEMA may re-evaluate its approach to securing compliance.

NOPSEMA will escalate conclusions relating to serious non-compliance and/or immediate threat or substantial risk to an investigation and/or enforcement.

7. Procedural fairness and transparency in inspections

In most cases, NOPSEMA will provide advance notice of inspections to the relevant dutyholder via an Inspection Brief. However, NOPSEMA may also undertake short, or no-notice inspections in response to evolving compliance issues or as part of compliance programs.

NOPSEMA will aim to ensure that dutyholders are fully aware of the role and purpose of inspections. This will typically involve providing an Inspection Brief, conducting “entry” meetings³ with the dutyholder(s) and other relevant personnel, to inform them of NOPSEMA’s intentions during the inspection and conducting an “Exit” meeting to present and discuss the observations and findings (both positive and negative) of the inspection.

The purpose of the inspection report is to communicate to NOPSEMA the Inspector’s conclusions from the inspection (based on their observations and findings) so that informed and appropriate response and action can be taken. To provide fairness and transparency, NOPSEMA will provide a draft report to the dutyholder and provide the dutyholder with an opportunity to identify any errors of fact in the report. NOPSEMA, in conjunction with the lead inspector, will consider all responses provided prior to issuing a final report.

NOPSEMA’s policy is to issue inspection reports to the primary dutyholder’s senior management with a cover letter which will, where applicable, include any comments that NOPSEMA wishes to make. These comments may be used to highlight significant risk gaps and/or non-compliance with permissioning documents and any perceived emerging risks. Where applicable, NOPSEMA will also issue inspection reports to other relevant dutyholders in circumstances where responsibility for managing risk is shared or overlaps.

8. Related documents

N-0000-PL1697 – Compliance Strategy

N-03000-PL1697 – Investigations Policy

N-04000-PL0050 – Assessment Policy

N-05000-PL0067 – Enforcement Policy

³ While there is no physical entry for remote inspections the ‘notification of entry’ terminology has been retained for simplicity.