

EXPLORATION PERMIT GUIDELINE: PERMIT CONDITIONS AND ADMINISTRATION

A guideline in relation to the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*

Prepared by the Commonwealth Department of Resources, Energy and Tourism

Effective 1 January 2012

PLEASE NOTE: as of 1 January 2012 the National Offshore Petroleum Titles Administrator (NOPTA) is the first point of contact on all titles administration matters relating to offshore petroleum and greenhouse gas storage.

PURPOSE

This guideline aims to inform industry of the processes and expectations in relation to amendments to, and termination of, exploration permits. It is anticipated the guideline will be amended from time to time.

This guideline is available online at www.petroleum-acreage.gov.au and forms part of the annual *Offshore Petroleum Exploration Acreage Release* information package available at the above address or by emailing Petroleum.Exploration@ret.gov.au. This guideline is also available at www.nopta.gov.au.

1. GENERAL

- 1.1. Permittees are required to comply with the provisions of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (OPGGSA), its Regulations, Directions issued under the Act, and with any special notices associated with the permit area.
- 1.2. In undertaking petroleum exploration operations, permittees are required to comply with the provisions of the *Environmental Protection and Biodiversity Conservation Act 1999*, its Regulations, associated Directions and documents.
- 1.3. A permittee is required to meet all permit conditions, including each agreed and guaranteed element of the work program, within the agreed timeframe.
 - 1.3.1. The Joint Authority accepts however, that elements of an exploration work program or its timing may need to change as geological knowledge is gained or if the timing of an operation is impacted by *force majeure* circumstance.
- 1.4. The Joint Authority will consider each application to vary the permit conditions on its merits. As such, it is expected that a separate application will be lodged for each permit.

2. WORK PROGRAM COMMITMENTS

- 2.1. The permittee must undertake each component of the guaranteed work program within the permit area, within the prescribed year. Failure to do so may result in cancellation of the permit.
 - 2.1.1. Work program commitments undertaken prior to an agreed year may be credited by the NOPTA towards the guaranteed work program.

- 2.1.2. It is the responsibility of the permittee to ensure that it has obtained written agreement from NOPTA to credit the activity towards a work program commitment prior to the commencement of the activity.
- 2.2. The primary work program cannot be reduced once the permit has been awarded. Exploration activity in excess of the primary work program commitments is permitted.
- 2.3. During the first three (3) year period of the permit term, the permittee must commence each component of the work program specified in the minimum work requirements in the designated year.
- 2.4. Work program commitments in each year of the secondary work program (years 4, 5 and 6) become guaranteed upon entry into each permit year on a year by year basis.
 - 2.4.1. Once a year is entered the permittee must commence all the work specified for that year within the specified timeframe.
- 2.5. Surrender of the permit in good standing may occur at the completion of any guaranteed period (i.e. at the conclusion of Year 3 or at the end of any given year in the secondary term) provided all guaranteed work program commitments have been satisfactorily completed.

Non-Exclusive (multi-client/ proprietary) Seismic Data & Reprocessing

- 2.6. An applicant may meet a proposed seismic surveying commitment by licensing an equivalent amount of non-exclusive seismic data that has been acquired within the permit after the date of permit award.
- 2.7. Reprocessed seismic data purchased/licensed by a permittee may meet a pre-existing seismic reprocessing commitment to the extent that the reprocessing met in part, or in full, the original work program commitment and the data was reprocessed after the date on which the permit was granted/renewed.
 - 2.7.1. If reprocessed seismic data is purchased/licensed to meet an existing seismic reprocessing commitment, it would be expected that the data would have been reprocessed from field tapes.

Suspension and Suspension with a corresponding Extension of the Permit Conditions

- 2.8. The Joint Authority may either suspend, or suspend with a corresponding extension, the permit conditions.
 - 2.8.1. A suspension will defer the end date of a current permit year and will not alter the end dates of subsequent permit years. A suspension of permit conditions will not affect the ability of the permittee to undertake work activities during the period of suspension.
 - 2.8.2. A suspension with a corresponding extension of the permit conditions will defer the end date of the current permit year and all subsequent permit years. A suspension and a corresponding extension of permit conditions will not affect the ability of the permittee to undertake work activities during the period of suspension and extension.
 - 2.8.3. Applications for suspensions or suspensions with a corresponding extension of the permit conditions must be lodged with the Joint Authority no earlier than

3 months before the conclusion of the permit year and no later than the expiry date of the permit year.

Force majeure circumstances

- 2.9. The Joint Authority may agree to either suspend, or suspend with a corresponding extension of the permit conditions, if the ability of the permittee to meet a work program commitment is adversely impacted by an event that cannot be reasonably anticipated or controlled (*force majeure* circumstances).
- 2.9.1. Commercial circumstances and common risks in the industry are not considered to constitute a force majeure basis for suspension and extension of the permit conditions. These factors include changes in oil prices, difficulty attracting a farm-in partner, difficulty in raising capital, avoidable delays in contracting a drilling rig/seismic vessel, disappointing exploration results, the need to wait for the results of exploration work undertaken outside the permit area, poor quality seismic data and failure to mature a drillable prospect.
- 2.9.2. In making an application for either force majeure suspension or force majeure suspension and corresponding extension of the permit conditions, the permittee should submit supporting documentation that provides evidence of the force majeure circumstances that have adversely impacted on the work program.

Above-Commitment Work

- 2.10. The Joint Authority may agree to either suspend, or suspend with a corresponding extension of the permit conditions to allow a permittee time to undertake significant above-commitment work that could have critical implications for the exploration of the permit area. These circumstances include:
- 2.10.1. If a permittee has entered a permit year in which there is a drilling commitment and has been unable to mature a drillable prospect for the well, the permittee may apply for up to a twelve (12) month suspension and corresponding extension of the permit conditions. This would allow time for the company to undertake above-commitment seismic surveying to mature a drillable prospect for that well.
- 2.10.1.1. The Joint Authority will only agree to suspend and extend the permit conditions if the permittee has demonstrated a significant attempt to meet its work program commitments and the permit conditions are varied to include the above-commitment surveying.
- 2.10.2. If a permittee proposes significant above-commitment work that is assessed to have critical implications for a permittee's forward plans for a permit, the permittee may apply for up to a six (6) month suspension and extension of the permit conditions to allow it time to complete the work.

Variation of the Secondary Work Program Conditions

- 2.11. No earlier than three (3) months and no later than one (1) month before the end of the third year of the permit term the permittee may submit a revised secondary work program covering the remaining years of the permit term for consideration by the Joint Authority.
- 2.11.1. If agreement cannot be reached on a mutually acceptable work program, the permit may be surrendered in good standing or continue in force subject to the original secondary work program.

2.12. No earlier than three (3) months and no later than one (1) month before the commencement of Permit Years 4, 5 and 6, a permittee may renegotiate the work program proposed for the following permit year.

2.12.1. The Joint Authority will only agree to vary the secondary work program on this basis if the permittee provides substantial and compelling evidence that the work program should be varied on technical grounds.

Work Equivalent Variations of the Primary & Secondary Work Program Conditions

2.13. Permittees may seek at any time to replace a guaranteed work activity with an alternative work activity. The Joint Authority will only agree to vary the work program commitments on this basis if the alternative work activity is a similar or superior technique and the alternative work activity meets or exceeds the objective of original work program commitment.

2.13.1. The Joint Authority will consider applications for work equivalent variations on a case-by-case basis.

2.13.2. It is the responsibility of the permittee to ensure that the Joint Authority has agreed to the work equivalent variation prior to the permittee undertaking the alternative work activity.

Testing a known petroleum accumulation

2.14. Work intended to appraise a known petroleum accumulation within a permit will generally be considered as not meeting an exploration work program commitment unless the work activity is assessed by the Joint Authority to include a significant exploration component.

2.14.1. If appraisal work is proposed and a permittee considers that the work could meet an exploration work program commitment, it is the responsibility of the permittee to obtain the written agreement of the Joint Authority prior to the commencement of the appraisal activity that the work will meet the exploration work program commitment.

2.14.2. Decisions as to whether an appraisal activity includes a significant exploration component (and can be credited as meeting an exploration work program commitment) will be made on a case-by-case basis by the Joint Authority.

3. PERMIT SURRENDER

3.1. Once a permit holder applies to NOPTA for consent to surrender the permit, NOPTA will consider the application in the context of the requirements of Section 269 of the Act before giving or refusing consent to surrender the permit.

3.1.1. The surrender will take effect in the permit year in which the consent is given.

3.2. In considering whether the permit holder 'has complied with the conditions to which the permit is subject and the provisions of the Act and of the Regulations', account will be taken of all relevant requirements, including:

3.2.1. The status of the permit (including fees and monies due) and whether all due work program commitments have been completed;

- 3.2.2. The reporting requirements contained in the Directions given to the permit holder and whether all reports and data have been lodged (for example, reports on specified activities, quarterly reports, annual reports);
 - 3.2.3. The action taken by the permit holder to ensure that the permit area is clear of all debris resulting from operations and that all wells have been plugged or closed.
 - 3.2.4. Failure to comply with the requirements of the surrender above may result in additional annual fee payments.
- 3.3. To facilitate consideration of applications for consent to surrender, it is expected that permit holders will ensure that the permit is in good standing and that any outstanding reports and data are lodged with the application.

4. PERMIT CANCELLATION

- 4.1. Permit holders are expected to ensure that all obligations under the Act, Directions and permit conditions, including any special notices associated with the permit area, are complied with.
- 4.1.1. Failure to comply with permit conditions may result in cancellation of the permit.
- 4.2. Where the Joint Authority believes cancellation of the permit is the appropriate course of action, the permit holder will be served a Notice of Intention to cancel the permit in accordance with section 276 of the Act.
- 4.2.1. Permit holders will be given 30 days within which to submit matters they wish to have considered by the Joint Authority in reaching its final decision on permit cancellation.
- 4.3. Arrangements are available for companies that have a permit cancelled to maintain good standing (refer below).

5. GOOD STANDING ARRANGEMENTS

- 5.1. A defaulting titleholder that wishes to maintain its good standing with the Joint Authority when subject to a permit cancellation (or permit expiry in default) due to failure to meet a work program condition may seek access to a Good Standing Arrangement (GSA).
- 5.1.1. Good standing is a consideration in the assessment of the past performance of an applicant for an exploration permit (refer *Assessment of Bid and Renewal Applications Guideline*).
- 5.2. In order to maintain good standing under the terms of the GSA, a defaulting titleholder must expend an agreed monetary value on qualifying work within the primary term of a qualifying permit.
- 5.2.1. The value of the outstanding work program commitment may be offset by the value of completed above-commitment work that has been varied into the defaulted permit's work program.
- 5.3. A qualifying permit is one that is granted through a winning bid on a re-released area within two (2) annual Acreage Releases of the GSA being executed.
- 5.4. Qualifying work for the purposes of a GSA, includes the acquisition and interpretation of new geophysical and geochemical data and/or drilling activities.

- 5.4.1. Reprocessing of seismic data may be used to meet this obligation if the original data was recorded after the date the qualifying permit was acquired.
- 5.4.2. Non-acceptable expenditure includes: permit administration costs; expenditure on general studies not agreed with the Joint Authority; and activities in permits obtained from the normal acreage releases.
- 5.5. A defaulting titleholder is eligible to enter GSA negotiations if they can satisfy the Joint Authority that:
- 5.5.1. they have made a significant attempt to assess the petroleum potential of the permit area, which would require *all* of the following:
- 5.5.1.1. at least the completion of seismic surveying commitments.
- 5.5.1.2. consideration of whether the defaulting titleholder has completed work in excess of the second highest bid for the permit area.
- 5.5.1.3. the Joint Authority may also give consideration to the past performance of the defaulting titleholder.
- 5.5.1.4. they agree to provide the Joint Authority with all documentary and derivative information relating to the cancelled permit (i.e. have all annual reports and other documents and data as required under the title been submitted to the Joint Authority).
- 5.5.1.5. all permittees agree to permit data immediately becoming ‘open file’.
- 5.5.1.6. they are willing to make a public announcement (ASX or otherwise) on the agreed GSA within three (3) months of the agreement.
- 5.6. A GSA remains in place until the completion of the GSA terms and conditions. A *National GSA Register* is maintained by the Commonwealth, on behalf of all Offshore Petroleum Joint Authorities, to record progress against GSA agreements.
- 5.6.1. Companies may be required to provide audited accounts demonstrating that the required expenditure commitments have been met.
- 5.7. Failure to comply with the GSA may result in the permittee and associated company directors being registered as ‘not in good standing’ with the Joint Authority for a period of five (5) years from the date on which the permit cancellation or the expiry of default was gazetted.

TABLE OF REVISIONS

Date	Version	Purpose	Jurisdiction
November 2011	4	Updated to reflect changes to OPGGSA—transfer to NOPTA	Cth
November 2010	3	Wholesale re-write to improve clarity of Joint Authority expectations	Cth
October 2009	2	Update to reflect: - OPGGSA numbering - Grammatical errors	Cth