

Financial Insurance Requirements under the Offshore Petroleum and Greenhouse Gas Storage Act 2010

This guidance note operationalises how financial insurance required under section 618 of the *Offshore Petroleum and Greenhouse Gas Storage Act 2010 (OPGGSA) (Vic)* is to be determined.

Purpose

Section 618 of the OPGGSA provides for the issuing of a direction to take out insurance, the amount of which is not mandated and currently determined on a case-by-case basis.

It is intended that the guidance note may give clarity regarding the insurance requirements for Victorian offshore authority holders and provide a measure of consistency for industry operators that hold authorities in Victorian and Commonwealth waters.

This guidance note will help to:

- Provide a mechanism for offshore authority holders to undertake rigorous financial planning, by enabling a consistent and transparent approach to insurance determination
- Support Ministerial delegates to issue directions consistent with the Commonwealth position
- Ensure that insurance requirements are rigorously aligned to the likely and actual costs of expenses, liabilities, specified things or any other thing arising in connection with, or as a result of the work undertaken.

Transparency, predictability and the principles of procedural fairness underpin this guidance note and will be applied by the regulator in issuing a direction.

This guidance note applies to section 618 of the Victorian OPGGSA only, as administered by Earth Resources Regulation for the State's offshore petroleum and greenhouse gas storage arrangements.

Relevant Legislation

Section 618 of the Victorian OPGGSA enables issuance of a direction for the maintenance of insurance related to petroleum permits, leases and licences:

- (1) The registered holder of –
 - (a) a petroleum exploration permit; or
 - (b) a petroleum retention lease; or
 - (c) a petroleum production licence; or
 - (d) an infrastructure licence; or
 - (e) a pipeline licence –

must maintain, as directed from time to time, insurance against –

- (f) expenses; or
- (g) liabilities; or
- (h) specified things –

arising in connect with, or as a result of –

- (i) the carrying out of work under the permit, lease or licence; or
- (j) the doing of any other thing under the permit, lease or licence –

including insurance against expenses of complying with directions relating to the clean-up or other remediation of the effects of the escape of petroleum.

- (2) A direction under this section must be in writing.

Determining Amount of Insurance to be Maintained

For the purposes of making this determination, Earth Resources Regulation takes insurance to

have the same meaning as used by NOPSEMA in its *Financial Assurance for Petroleum Titles Guideline*. That is, “an arrangement by which one person undertakes in return for some agreed consideration to pay another person a sum of money, or provide an equivalent benefit, on the happening of a specified event, the occurrence or timing of which is uncertain”.

Section 618(1) of the OPGGSA requires titleholders to estimate the sum of the greatest reasonably credible expenses, liabilities and specified things that may arise from a petroleum incident relating to the activities of the titleholder in order to determine the level of insurance that may be required.

For calculation purposes, and in most cases, the greatest reasonably credible expenses, liabilities and specified things that may arise from a petroleum activity, are associated with the unlikely event of an escape of petroleum. This does not limit the titleholder from maintaining insurance to cover all expenses, liabilities and specified things that may arise over the life of a petroleum title, whether relating to an escape of petroleum or otherwise.

Liabilities are considered obligations and debts a company owes, in contrast to expenses which are the costs of a company’s operation. Depending on the context or nature of the petroleum activity, reasonably estimable expenses could also include third party expenses associated with responding to an incident, clean up and remediation, or the undertaking of monitoring. If expenses are not paid they can become liabilities, depending on the circumstances.

Methods for estimating insurance are not expected to address unidentifiable or inestimable expenses which may be associated with compensation for loss and ongoing damage to other parties, and which are able to be pursued through civil action in a court of law.

Earth Resources Regulation may inspect compliance with a titleholder’s duty to maintain insurance by checking that titleholders are

implementing processes to maintain financial insurance throughout the resource lifecycle in accordance with the legislative requirements.

Roles and Responsibilities

Ministerial delegates will be guided by this note when issuing directions under section 618 of the OPGGSA.

Authority holders should refer to this note when determining and proposing the amount of insurance to be taken out and before seeking additional guidance from Earth Resources Regulation.

Information and Resources

[Offshore Petroleum and Greenhouse Gas Storage Act 2010 \(Vic\)](#)

[NOPSEMA Financial Assurance for Petroleum Titles Guideline](#) (read paragraphs 2.1 and 2.2)

Review

This note will be reviewed every two years or as required, unless superseded by further guidance.

Authorised by the Minister for Resources

Published by the Department of Jobs, Precincts and Regions
1 Spring Street Melbourne Victoria 3000
Telephone (03) 9651 9999

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2021

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