

Supplementary Submission by the Department of Industry, Science, Energy
and Resources

to the Environment and Communications References Committee

Impact of seismic testing on fisheries and the marine environment

September 2020

1. Introduction

The Department of Industry, Science, Energy and Resources (the Department) notes that the topic of Good Standing Agreements (GSAs) has been mentioned by witnesses at hearings of the Environment and Communications References Committee and welcomes the opportunity to make a supplementary submission on this matter. Our submission provides information on the role of GSAs in the exploration permitting and policy framework for offshore oil and gas activities. This supplementary submission should be read in conjunction with the original submission provided by the Department in November 2019.

2. Exploration

Exploration, by its very nature, is a process by which a theory is tested, or early stage information is examined in more detail. The results of exploration can be estimated but not known until the work is undertaken, and even then, the outcome of exploration is often more questions rather than answers. Exploration is reliant on quality data – this data need to be collected, analysed and interpreted.

For oil and gas exploration in Australia's offshore area, data is acquired through a range of means – via seismic surveys, geophysical surveys, processing of existing data or 'vintage' data, and drilling of exploration well(s). The type of data required is influenced by the level of understanding of the area, and when awarding permits to explore in the offshore area, the understanding of the area, and the strategy/approach to exploration is taken into account when considering the work program.

3. Exploration permits

Petroleum exploration permits are awarded through a competitive bidding process under the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (the Act), on areas released as part of government's annual Offshore Petroleum Exploration Acreage Release. Companies propose work programs in their bids, which outline activities that will best advance the understanding of the petroleum potential of a release area.

Decisions on the award of permits are made by the Joint Authority for the relevant offshore area, which comprises the Commonwealth Minister for Resources and, where applicable, their State/Territory Ministerial counterpart (or delegates). Permits are awarded to the company most likely to achieve the fullest assessment of the petroleum potential, within specified timeframes, and who have a satisfactory record of past performance in accordance with section 1.42 of the [Offshore Petroleum Exploration Guideline: Work-bid](#) (the Guideline) and section 106(3) of the Act. Awards are subject to a requirement to complete the work program commitments.

As a condition of an exploration permit, a work program is imposed with the activities to be undertaken and specifies a timeframe for doing so. The first three years of a work program is referred to as the 'primary term'. Once a permit is awarded, the primary term becomes guaranteed and cannot be reduced. Failure to comply with conditions of a title is grounds for cancellation under section 274 of the Act.

If a company does not complete the primary term work program commitments in a petroleum exploration permit, the permit will be cancelled by the Joint Authority. If an exploration permit is cancelled, the Joint Authority can take into account non-compliance as a matter of past performance when considering award of new exploration permits.

4. Good Standing Agreements

4.1 Background to GSAs

The policy supporting GSAs was introduced in 1999 as a mechanism to enable defaulting titleholders to maintain their 'good standing' with the Joint Authority after permit cancellation or expiry in default by way of entering into a GSA with the Joint Authority. The policy recognised the uncertainty inherent in exploration, and that 'failing to succeed' in exploration efforts was not a reason to exclude an explorer in the future.

By entering into and complying with the terms of the GSA, an eligible defaulting titleholder can retain a positive past performance status or 'good standing' with the Joint Authority.

By not entering into a GSA or defaulting on a GSA, a 'past performance matter' will be recorded against the defaulting company and its directors for a period of 5 years. Past performance is a consideration when the Joint Authority is determining the most deserving applicant to offer the grant of an exploration permit.

Past performance of a company, is a broad concept of which 'good standing' is only one part. Past performance is any default and/or non-compliance matter or other environmental, safety, security matters either in Australia or internationally that may, in the Joint Authority's view, adversely affect the ability of a company and/or its director to actively undertake exploration. The Joint Authority will consider the past performance of a company when awarding an exploration permit in accordance with the Guideline and section 106(3) of the Act.

4.2 How companies enter into a GSA

A GSA is a voluntary arrangement. It is up to individual companies to make a request to the Joint Authority to enter into a GSA. Eligibility criteria is set out in a publicly-available [Guideline](#).

If the criteria are met, an assessment will be undertaken by the National Offshore Petroleum Titles Administrator (NOPTA) to determine the current market value of the defaulted primary work program commitments.

Once a value for the GSA has been agreed, companies work with the Joint Authority to determine their expenditure options, which can be either:

- bidding on an uncontested acreage release area within two bidding rounds of the annual offshore petroleum exploration acreage release; and/or
- a regional study which is of broad relevance to the Australian petroleum industry.

Where companies seek to complete a GSA through undertaking regional studies, it is up to the company to propose the regional study. The Joint Authority considers the proposal to ensure it is of broad relevance to the Australian petroleum industry and in line with Government priorities prior to agreement.

Terms and conditions of GSAs are determined and negotiated on a case by case basis.

Once the terms of the GSA are agreed, it is then up to the company to ensure compliance with the agreement. If a company maintains compliance with the terms and conditions outlined in the Guideline and the GSA, the Joint Authority will not consider the default that led to the GSA when considering past performance criteria in new permit award deliberations.

If the defaulting titleholder:

- is not eligible for a GSA
- does not accept the offer of entering into a GSA
- becomes non-compliant with an existing GSA

the company (including the parent company where applicable and all associated directors) will be considered to have a past performance matter with the Joint Authority for a period of five years (this is commonly referred to as being 'not in good standing').

4.3 Regional studies

It is important to note that where companies seek to complete a GSA through undertaking regional studies, it is up to the company to propose the regional study. The Australian Government does not hold or manage GSA funds, and there is no mechanism for research agencies to apply direct to Government for GSA funding.

A regional study proposed by a defaulting company can take a number of forms, as long as it is of broad relevance to the Australian petroleum industry and aligned with Government priorities. Projects are expected to be completed within three years from the date of the execution of the GSA. The data generated from a regional study becomes public in a timeframe agreed with the Joint Authority with the purpose of stimulating exploration interest in areas and assist in preparation of bids on areas offered as part of an acreage release.

Projects that might be considered by the Joint Authority to be a regional study include:

- collaboration with research institutions (such as Geoscience Australia, CSIRO, Australian Institute of Marine Science), academia, or other geoscience/science agencies or between GSA holders. The results of this research is made publicly available as soon as practicable or as close as possible to the end of the three year GSA timeframe.
- acquisition, processing and/or interpretation of new 2D or 3D seismic data, or geophysical or geological survey data acquired under a Special Prospecting Authority after the signing of the GSA. Projects acquiring new data would usually only be eligible if over acreage not currently being explored for oil and gas. The data is to be made publicly available as soon as practicable after acquisition or as close as possible to the end of the three year GSA timeframe.
- reprocessing of existing publicly-available data, which are of broad relevance to the Australian petroleum industry, by applying new technologies. Reprocessing of data predominantly over titles currently held by the GSA holder will not be eligible.

The AIMS North West Shoals to Shore Research Program project is one of two public research regional studies agreed to and delivered under a GSA to date. The other project involved contributions to the CSIRO's Great Australian Bight Deepwater Marine Program.

Two further pre-competitive geoscience data projects are being undertaken through the regional study mechanism. Data from these projects will be made available through Geoscience Australia following completion.

5. Review of GSA policy

In line with the National Resources Statement, the policy around GSAs is being examined. To ensure a comprehensive and informed approach to this review, the process will commence by seeking comments from industry and other interested stakeholders via a public consultation process.

A discussion paper is currently in preparation and is anticipated to be published on the Department's Consultation Hub. Feedback from this consultation process will inform recommendations for the future policy.