

BSEE Permits, Approvals, and Process Alternatives Australia

1. Overview of Offshore Oil and Gas Regulation in Australia

Oil and gas operators under the jurisdiction of the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) NOPSEMA was established under the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (OPGGGS Act) and is funded through industry levies collected on behalf of the Commonwealth of Australia.

The legislative framework is established under:

- The *Offshore Petroleum and Greenhouse Gas Storage Act 2006*
<http://www.comlaw.gov.au/Details/C2014C00704>
- Amendments to the OPGGS (2012-2014), which include
 - reinforcement of the ‘polluter pays’ principle by making the titleholder responsible for all environmental compliance
 - greater transparency of NOPSEMA’s environmental management assessment processes
 - the ability for NOPSEMA to request further written information from a titleholder in relation to an environment plan submission
 - an Offshore Project Proposal for new development activities, including a mandatory minimum public comment period of four weeks
 - clarified and strengthened environmental performance and incident reporting requirements
- The *Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Act 2003* (Regulatory Levies Act) impose the levies and the *Offshore Petroleum Greenhouse Gas Storage (Regulatory Levies) Regulations 2004* (Levies Regulations) prescribe how levies are calculated

1.1. Alternatives to BSEE Permits, Approvals, and Processes

There are seven potential alternatives identified relative to the current process used by BSEE to regulate offshore oil and gas exploration and development.

1.1.1. Sole-Regulatory Agency Approach

Beginning in February 2014, the Australian regulatory bodies streamlined the regulation of projects involving petroleum activities under one regulatory body, rather than two. NOPSEMA was made the sole regulator for petroleum activities in Australian waters that relate to matters listed as ‘protected’ under the Environment Protection and Biodiversity Conservation Act. This streamlining was done in order to reduce duplication in environmental regulation while maintaining strong environmental safeguards. This covers World Heritage properties, National Heritage places, wetlands of international importance, listed threatened species and ecological communities, listed migratory species, and Commonwealth marine area.

This streamlining approach might not fit the scope of BSEE’s current analysis of potential alternatives to their permitting and approval process, but is included here in the event that BSEE may be considering

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regulatory consolidation with other U.S. agencies that regulate oil and gas Exploration & Production activities in U.S. waters.

1.1.2. Multi-Level Permit Structure

NOPSEMA uses a two-part approval process for permitting offshore oil and gas development. Under the OPGGS Program, there are two submissions which are assessed by NOPSEMA in accordance with the Environment Regulations: Offshore Project Proposals (OPP) and Environment Plans (EP) for all petroleum activities in Australian waters.

For offshore projects (*i.e.* one or more activities undertaken to recover petroleum), companies must submit an OPP to NOPSEMA for assessment on a 'whole-of-lifecycle' basis. The OPP must include details of the project, environmental impacts and risks, environmental performance outcomes and a description of potential alternatives. It is subject to a mandatory period of public comment of four weeks minimum and is then accepted or refused by NOPSEMA.

Once the company holds an accepted OPP, they must submit an EP to NOPSEMA for assessment of that activity, and may not commence the activity until NOPSEMA accepts the EP. To accept an EP, NOPSEMA must be reasonably satisfied that the EP meets the criteria for acceptance under section 10A of the Environment Regulations. www.nopsema.gov.au/environmental-management.

1.1.3. Plan-Based Approach/Environmental Management System

The approach to developing the OPP and EP in Australia follows accepted international risk management and performance based standards in that the Environmental Regulations are system-based, where an environmental management system is implemented to effectively identify and continuously reduce impacts and risks to as low as reasonably practical (ALARP) and acceptable levels for the duration of the activity.

1.1.4. Third-Party Audit Program

The Australia program uses third party auditors, in conjunction with EMS audits.

1.1.5. Measurement Criteria for Performance Standards

The environmental performance standards utilize measurement criteria to validate that performance-based environmental performance outcomes are being met.

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1.1.6. Mandatory Public Comment Period for Permit Issuance

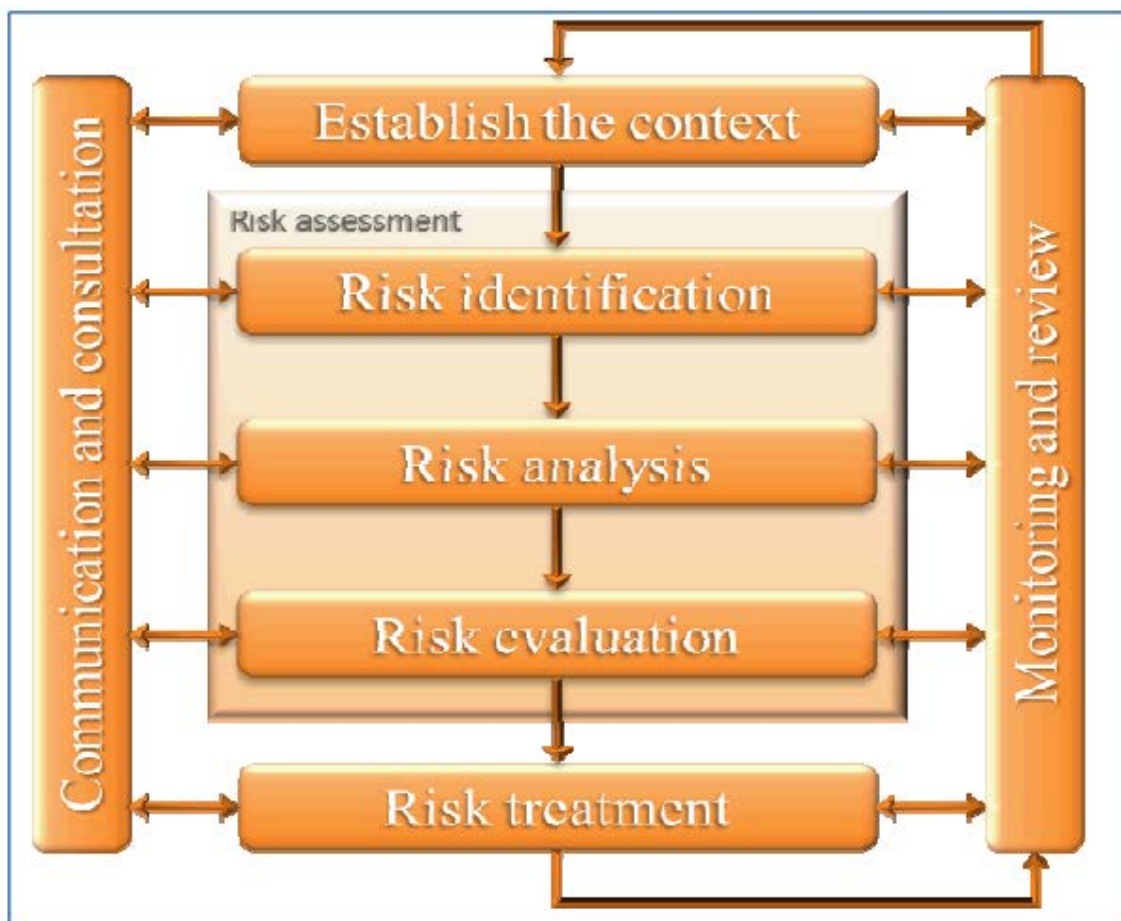
The mandatory public comment period that is part of OPP issuance is in itself an alternative to be considered by BSEE.

Figure 1 shows the OPP and EP Based on AU/NZ ISO 31000 Standard (International Organization of Standardization). Figure 2 shows the Role of ISO 14001 Environmental Management Systems (EMS) in applicants fulfilling OPP and EP requirements.

1.1.7. Time-Bound Permit Application Review Process

One key feature of the Australian Program is time-based limits for certain submittals and the issuance of approvals, typically in the range of 30-90 days.

Figure 1: OPP and EP Based on AU/NZ ISO 31000 Standard¹



¹ N-04750-GNL344 Environmental Plan Content Requirements Guidance Note, 28 February 2014

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Figure 2: Role of ISO 14001 Environmental Management Systems in Fulfilling OPP and EP Requirements²



A comparison of the Australian programs analogous to those in the BSEE Scope for this project are presented in Table 1.

1.2. Points for Further Research

1.2.1. Sole Regulatory Agency Approach

If implementing a Sole Regulatory Agency is pursued as an alternative approach, further research would be conducted concerning existing jurisdictional boundaries among agencies to assess the viability of this approach, as this approach would involve BSEE assuming some of the responsibilities currently managed by other U.S. Regulatory Agencies.

1.2.2. Multi-Level Permit Structure

² N-04750-GNL344 Environmental Plan Content Requirements Guidance Note, 28 February 2014

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If use of Multi-level Permit Structure is pursued as an alternative approach, further research would be conducted to compare BSEE's current timeline and workflow for processing permit applications with the timeline requirements for BSEE to review a separate OPP and EP for proposed installations, to assess the feasibility of BSEE implementing this approach.

1.2.3. Plan-based Approach/Environmental Management System

If use of an Environmental Management System (EMS) is pursued as an alternative approach, further research would be conducted to assess the viability of BSEE applying EMS in assessing compliance with applicant's OPP and EP requirements in the context of a multi-level permit structure.

The Australian program uses EMS in fulfilling the OPP and EP requirements. Separate from consideration of applying EMS within the multi-level permit structure, BSEE may also want to consider applying EMS as a program management tool.

1.2.4. Third-Party Audit Program

If use of third party auditing is pursued as an alternative approach, further research would be conducted to assess the viability of applying third-party audit programs to BSEE's permit compliance-determination activities.

BSEE needs to be aware that as part of the verification of the EMS, the Australian program uses third party auditing to support compliance assurance. To our knowledge, BSEE does not use third party auditors as the primary compliance auditor.

1.2.5. Measurement Criteria for Performance Standards

If use of Measurement Criteria is pursued as an alternative approach, further research would be conducted to identify existing BSEE-applied performance metrics and assess the viability of developing and applying measurement criteria to BSEE performance metrics.

The environmental performance standards which utilize measurement criteria to validate that performance-based environmental outcomes are being met and may need to be further researched.

1.2.6. Mandatory Public Comment Period for Permit Applications

If use of Mandatory Public Comment Period is pursued as an alternative approach, further research would be conducted to assess how application of this approach would affect BSEE timelines for review of applicant submittals.

One element of the OPP approval process is a mandatory public comment period. This could be considered an alternative to the current BSEE process.

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1.2.7. Time-Bound Permit Application Review Process

If time-based limits for certain inspections and notifications is pursued as a potential alternative approach, further investigation how time-limited processes are being applied in Australia would be conducted to assess the viability of BSEE applying time-bound processes. The focus of this research would be to assess how time limitations affect the efficiency, effectiveness, and suitability for purpose of the Australia permitting programs, including what administrative structure is in place to support timely reviews, what content is required in the approval application, what restrictions exist in the underlying regulatory structure, and what fail-safe options are built in to prevent automatic approvals in unwanted cases.

1.3. Implications for BSEE

1.3.1. Sole Regulatory Agency Approach

Efficiency

This approach would involve BSEE assuming some of the responsibilities currently managed by other U.S. Regulatory Agencies. This approach could potentially improve efficiency through BSEE consolidating certain overlapping review functions currently held by multiple agencies into the jurisdiction of one agency.

Effectiveness

This approach could reduce duplication of efforts among the Agencies involved. It could also result in cost reduction since only BSEE would be responsible. Finally, it could lead to a reduction of confusion and disagreements among Agencies regarding overlapping duties and territorial rights.

Suitability for Purpose

This approach could potentially improve environmental and safety performance by allowing BSEE, as a sole regulator to consider the potential effects of safety standards on environmental performance and the potential effects of environmental standards on safety performance.

Implementation

This approach would involve BSEE assuming some of the responsibilities currently managed by other U.S. Regulatory Agencies. Under this approach BSEE would have to develop expertise and systems that the USCG, USACOE, USEPA, and other agencies with jurisdiction over certain offshore activities already have developed. Congressional legislation would likely be required to establish sole regulatory jurisdiction over offshore activities under BSEE. Existing regulatory jurisdictions may be difficult to combine under BSEE without significant effort.

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1.3.2. Multi-Level Permit Structure

Efficiency

This approach could potentially improve BSEE efficiency, could be neutral, or could be detrimental to efficiency. Adoption of a multi-level permit program that requires a structure such as an OPP and EP could provide a level of efficiency to BSEE in the long term. In the short term, depending on how BSEE approved the multi-level-permit structure, reviewing OPP on a life-cycle basis and separately permitting individual permits would be more complicated than using a list of American Petroleum Institute (API) and American Society for Testing and Materials (ASTM) Standards.

Effectiveness

This approach could potentially improve effectiveness on the part of both BSEE and the applicants. The BSEE program is based on permitting and approvals. Employing a more structured approach to this process could improve effectiveness in terms of the rigor a company must provide to obtain a permit.

The structure of the OPP as an overall framework for a petroleum exploration program along with an EP for specific activities could provide BSEE with regulatory assurance and companies with flexibility to have a more streamlined process for permitting individual pieces of equipment within an approved framework plan.

Suitability for Purpose

This approach could potentially contribute to improvement in safety and environmental performance. The separate OPP and EP could contribute to the applicant preparing more detailed submittals that identify specific critical elements of the proposed installation and facilitate BSEE conducting a more detailed review of critical elements toward consideration and application of more effective safety and environmental controls to these elements as part of the permitting process.

Implementation

Depending on the amount of life cycle planning and assessment BSEE chooses to incorporate, some adaptation of permitting processes would be required to implement this type of requirement.

1.3.3. Plan-Based Approach/Environmental Management System (EMS)

Efficiency

Adoption of a program that requires application of EMS to assess applicant compliance with the provisions of the Offshore Project Proposal (OPP) and Environmental Plan (EP) could potentially result in improved efficiency, could be neutral, or could be detrimental to efficiency.

Effectiveness

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This approach could potentially improve effectiveness on the part of both BSEE and the applicants. BSEE could achieve improved effectiveness in assessing applicant compliance with permit conditions through application of an EMS-based approach. BSEE has relied on regulations to enforce environmental standards and permitting obligations. Moving to a less standard-regulated and more plan-focused approach would facilitate BSEE conducting a more detailed assessment of the permitted installation as a whole rather than permitting individual activities under the current BSEE permitting system. Requiring an overall OPP would provide a framework that would give a big picture view of the exploring company's plan over time rather than a piecemeal approach that individual permits produces.

Suitability for Purpose

This approach could potentially contribute to improvement in safety and environmental performance by establishing a consistent EMS-based approach for BSEE to determine applicant compliance with permit conditions.

Implementation

This approach would require identifying critical elements that BSEE would continue to control and monitor by permit application and which could be more appropriately managed under the plan-based EMS approach.

1.3.4. Third-Party Audit Program

Efficiency

This approach could potentially contribute to improvement in BSEE's efficiency in determining applicant compliance with permit conditions. Adopting a program that incorporates third party participation would free staff resources to focus on more critical elements.

Effectiveness

This approach could potentially improve effectiveness on the part of both BSEE and the applicants. BSEE could achieve improved effectiveness in assessing applicant compliance with permit conditions through application of a third-party audit approach. . The implementation of a Third Party Audit Program would likely require pairing with other elemental changes to the BSEE Program that would include safety and risk program elements.

Suitability for Purpose

This approach could potentially contribute to improvement in safety and environmental performance. In combination with another elemental change, such as the inclusion of safety and risk programs, a Third Party Audit Program would provide manpower and expertise to assist BSEE in administering their program and providing conformance assurance. Implementing a program that requires third party auditing and evaluation could free BSEE resources to focus on auditing critical elements more frequently

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and at a greater level of effort while auditing delegated elements periodically on a programmatic basis rather than element-by-element.

Implementation

Precedent exists for implementing a Third Party Audit Program in the existing EMS/ISO 14001 program and would be transferrable, should BSEE decide to implement one.

1.3.5. Measurement Criteria for Performance Standards

Efficiency

This approach could potentially contribute to improvement in BSEE's efficiency in reviewing applicant submittals. Adopting measurement criteria would give BSEE a set of standard benchmarks to compare performance to for particular processes and operations. Additionally, it would assist BSEE define minimum standards/criteria that operators would have to meet to ensure acceptable environmental performance.

Effectiveness

This approach could potentially contribute to improvement in effectiveness on the part of both BSEE and the applicants. If BSEE is focused on consistency of applying permitting standards, implementing measurement criteria could improve effectiveness of implementing BSEE standards.

Suitability for Purpose

This approach could potentially contribute to improvement in safety and environmental performance. If BSEE focuses on creating more consistent and uniform standards for certain processes, establishing measurement criteria would contribute to BSEE's ability to assess compliance of applicants with permit conditions.

Implementation

BSEE currently uses API and ASTM Standards as benchmarks for setting performance criteria. Adopting these or other measurement criteria would be feasible.

1.3.6. Mandatory Public Comment Period for Permit Applications

Efficiency

This approach may or may not increase efficiency. In the short term, at least, it could decrease efficiency, with the administrative burden required to schedule, hold, and manage the process.

Effectiveness

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This approach could potentially improve effectiveness on the part of BSEE and the applicants, could be neutral, or could be detrimental to effectiveness. The increased public scrutiny of mandatory public comment periods could have several potential effects on the process itself and on the results. One is that it would force companies to be more transparent and communicative about their intentions, potentially resulting in safer and more environmentally observant operations. Another is that it could delay the review process itself, making it less effective than it is now.

Suitability for Purpose

This approach could potentially contribute to improvement in safety and environmental performance by enabling BSEE to establish more effective safety and environmental controls based on information gained from the public comment process.

Implementation

Federal agencies already incorporate public comment into many of their processes; if BSEE chooses to implement this process, there is ample experience to do so. Many existing significant permit processes, such as Title V and other Federal permitting processes, already incorporate mandatory public comment periods; thus, it would be suitable if BSEE chose to implement it.

1.3.7. Time-Bound Permit Application Review Process

Efficiency

This approach could potentially increase efficiency. BSEE would need to develop processes which might include standardized forms, upfront permit completeness review, issuance of standard terms and conditions, and a step-by-step permit evaluation process. Implementing this approach could potentially result in BSEE having to devote fewer labor-hours to review each permit application.

Effectiveness

This approach might or might not improve effectiveness. There is a risk that BSEE staffing and resource shortages would render the Agency unable to routinely complete reviews within the allotted timeframe. On the other hand, a more “mechanized” approach to permit review could result in more consistent permit review.

Suitability for Purpose

Implementing this approach may or may not result in improved safety and environmental performance, or may be neutral with respect to performance.

Implementation

Implementing this approach would require a fundamental change in how BSEE conducts reviews of permit applications and other decision documents. BSEE would need to provide for a fixed schedule for

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decision making as to whether to approve or disapprove an application, or request further information from the applicant. BSEE would need to develop the ability to deploy staff quickly and efficiently to meet the demand for permits or secure contract assistance. In addition, BSEE would likely want to consider adding a mechanism to provide an option other than automatic approval of a submittal.

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Table 1. Comparison of the Australian Offshore Oil and Gas Program to BSEE Permits and Plan Requirements Covered in the Scope of this Analysis

Type	BSEE Permit/Plan Requirement	What is it? Who is required to have it?	When is it required?	How does the Australia Compare to BSEE Scope?
Admin	Royalty Relief application	Operators may apply for royalty relief for leases or projects that meet criteria specified in 30 CFR 203	Optional	Refunds and remittances are only applicable where regulatory effort has not been expended (either in part or whole).
Admin	Compensation Royalty Determination Request	Operators may either: (1) Drill and produce the wells that the Regional Supervisor determines are necessary to protect the Federal government from loss due to production on other leases or units or from adjacent lands under the jurisdiction of other entities (e.g., State and foreign governments); or (2) Pay a sum that the Regional Supervisor determines as adequate to compensate the Federal government for your failure to drill and produce any well.	Optional	Have not found comparable provisions to BSEE Scope in Australian regulations.
Explor	Application for Permit to Drill (APD)	Lessees, operating rights owners, operators, and their contractors and subcontractors	Before drilling any well or before sidetracking, bypassing, or deepening a well	Similar. An EP is required for specific activity, with an accepted OPP in place.

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Type	BSEE Permit/Plan Requirement	What is it? Who is required to have it?	When is it required?	How does the Australia Compare to BSEE Scope?
Explor	Application for Permit to Modify (APM)	Lessees, operating rights owners, operators, and their contractors and subcontractors	An APM is required for operators that: <ul style="list-style-type: none"> • intend to revise a drilling plan, change major drilling equipment, or plugback; • determine a well's final surface location, water depth, and the rotary kelly bushing elevation; or • move a drilling unit from a wellbore before completing a well. 	Similar. An EP is required for specific activity, with an accepted OPP in place.
Devel	Deep Water Operations Plan (DWOP)	Required for operators with: <ul style="list-style-type: none"> • deepwater development projects; or • any development projects which will use non-conventional production or completion technology, regardless of water depth. 	The DWOP consists of two parts: a Conceptual Plan and the DWOP: <ul style="list-style-type: none"> • The Conceptual Plan is required before completing any production well or installing the subsea wellhead and well safety control system. • The DWOP is required before production. 	Similar. An EP is required for specific activity, with an accepted OPP in place.
Leasing	Lease Suspension Request	Operators may request a suspension, which will either take the form of Suspensions of Operations (SOO) or Suspensions of Production (SOP).	Before the end of the lease term (i.e., end of primary term, end of the 180-day period following the last leaseholding operation, and end of a current suspension)	Have not found comparable provisions to BSEE Scope in Australian regulations; might be covered through EP.
Leasing	Competitive Reservoir Determination Request	Optional request for preliminary determination by the Regional Supervisor as to whether a reservoir is competitive		Have not found comparable provisions to BSEE Scope in Australian regulations; might be covered through EP.

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Type	BSEE Permit/Plan Requirement	What is it? Who is required to have it?	When is it required?	How does the Australia Compare to BSEE Scope?
Leasing	Voluntary Unitization Proposal or Unit Expansion	Optional request for voluntary unitization or expansion of a previously approved voluntary unit to include additional acres		Similar. An EP is required for specific activity, with an accepted OPP in place.
Prod	Temporary Storage Request	Operators must obtain approval of the method of disposal of drill cuttings, sand, and other well solids		Similar. An EP is required for specific activity, with an accepted OPP in place.
Prod	Surface Commingling Application		Before commencing the commingling of production or making any changes to previously approved commingling procedures	Similar. An EP is required for specific activity, with an accepted OPP in place.
Prod	Production Approvals (Special Cases)		The following production activities require approval: <ul style="list-style-type: none"> • production within 500 feet of a unit or lease line; • production of gas-cap gas from an oil reservoir with an associated gas cap; • downhole commingling hydrocarbons; • flaring and venting gas; and • enhanced oil and gas recovery operations. 	Similar. An EP is required for specific activity, with an accepted OPP in place.
Prod	Facility Safety System Application (i.e. Production Safety System Application)	Required for surface production-safety systems	Prior to installation	Similar. The OPP and EP must conform to ISO 14001 EMS principles.

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Type	BSEE Permit/Plan Requirement	What is it? Who is required to have it?	When is it required?	How does the Australia Compare to BSEE Scope?
Platform	Platform Approval Program Application		Before the following circumstances: <ul style="list-style-type: none"> • installation of a platform; • major modification to any platform; • major repair of damage to any platform; • converting an existing platform at the current location for a new purpose; and • converting an existing mobile offshore drilling unit (MODU) for a new purpose. 	Similar. An EP is required for specific activity, with an accepted OPP in place.
Platform	Platform Verification Program Plans/Documentation	The following kinds of platforms are subject to the Platform Verification Program: • floating platforms; • platforms of a new or unique design; • platforms in seismic areas; and • platforms located in deepwater or frontier areas.	For any platform subject to the Platform Verification Program, the following are also subject to the program: the conversion of that platform at that same site for a new purpose, or making a major modification of, or major repair to, that platform.	Similar. An EP is required for specific activity, with an accepted OPP in place.
Pipeline	Pipeline Application		Before: <ul style="list-style-type: none"> • Installation, modification, or abandonment of a lease term pipeline; • Installation or modification of a right-of-way (other than lease term) pipeline; or • Modification or relinquishment of a pipeline right-of way. (250.1000) 	Similar. An EP is required for specific activity, with an accepted OPP in place.
Pipeline	Right-of-way (ROW) Assignment	Application for approval of an assignment of a ROW or of a lineal segment thereof		Have not found comparable provisions to BSEE Scope in Australian regulations.

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Type	BSEE Permit/Plan Requirement	What is it? Who is required to have it?	When is it required?	How does the Australia Compare to BSEE Scope?
Pipeline	Pipeline Repair Application/Plan	Lessees or ROW holders must notify BSEE about repairs of pipelines or pipeline components and submit a detailed report after the completion of repairs	Before the repair of any pipeline or as soon as practicable. Report must be submitted within 30 days after completion of the repairs.	Similar. An EP is required for specific activity, with an accepted OPP in place.
Pipeline	Pipeline Right-Of-Way Grant Application		Before installation of a right-of-way pipeline (250.1000, 250.1009)	Similar. An EP is required for specific activity, with an accepted OPP in place.
Spill	Oil Spill Response Plan (OSRP)	<ul style="list-style-type: none"> • Describes plans for responding to an oil spill, as well as training, equipment testing, and periodic drills • Required for owners or operators of: <ul style="list-style-type: none"> o oil handling, storage, or transportation facilities located seaward of the coast line; o abandoned facilities until they are physically removed or dismantled, or the Regional Supervisor provides notification that the plan is no longer required; or o offshore pipelines carrying oil, condensate that has been injected into the pipeline, or gas and naturally occurring condensate (not required for operators with essentially dry gas). 	Before operating a facility (or while BSEE reviews the plan, if there are appropriate certifications)	Similar. The OPP and EP must conform to ISO 14001 EMS principles.

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Type	BSEE Permit/Plan Requirement	What is it? Who is required to have it?	When is it required?	How does the Australia Compare to BSEE Scope?
Decom mis	Site Clearance Waiver	For well sites, platforms, and other facility sites, operators must submit an APM to BSEE with specified information about site clearance	30 days after the completion of verification activities	Similar. An EP is required for specific activity, with an accepted OPP in place.
Decom mis	Structure Removal Application	For leases and pipeline ROWs in the Pacific OCS Region and Alaska OCS Region, operators must submit an initial platform removal application		Similar. An EP is required for specific activity, with an accepted OPP in place.

References:

- <http://www.nopsema.gov.au/>