

Onshore Petroleum Annual Environmental Performance Reporting

Guideline

Onshore Petroleum Annual Environmental Performance Reporting

Document title	Onshore Petroleum Annual Environmental Performance Reporting
Contact details	Department of Environment, Parks and Water Security
Approved by	Director Petroleum Operations
Date approved	21 December 2023
Document review	As required
TRM number	NTEPA2019/0045-024~0004

Version	Date	Author	Changes made
1.0	28 October 2021	Petroleum Operations	Final, approved for publication by CEO DEPWS
1.1	7 July 2023	Petroleum Operations	Draft for review, updated to reflect amendments to the <i>Petroleum Act 1984</i> and <i>Petroleum (Environment) Regulations 2016</i>
2.0	21 December 2023	Petroleum Operations	Final for publication

Disclaimer: This Guideline does not constitute legal advice, is not intended to be a substitute for legal advice and should not be relied upon as such.

Acronym/Term	Full form/Explanation
Act	Petroleum Act 1984 (NT)
AEPR	Annual Environmental Performance Report
Code	Code of Practice: Onshore Petroleum Activities in the Northern Territory
DEPWS	Department of Environment, Parks and Water Security (NT)
DITT	Department of Industry, Tourism and Trade (NT)
EMP	Environment Management Plan
EP	Exploration Permit
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999 (Cth)</i>
Environmental outcome	defined in the Regulations as meaning: <i>an outcome that will be achieved if the environmental impacts and environmental risks of a regulated activity are reduced to a level that is: (a) as low as reasonably practicable; and (b) acceptable</i>
Environmental performance standard	defined in the Regulations as meaning: <i>a standard that: (a) relates to the management of environmental impacts and environmental risks of a regulated activity; and (b) applies to persons, systems, equipment or procedures involved in carrying out the activity</i>
Interest Holder	Means a person who holds a petroleum interest for a regulated activity.
Minister	Minister for Environment, Climate Change and Water Security Includes delegates as per delegation instruments
Operator	Means a person designated as operator under section 16(3)(g) of the <i>Petroleum Act 1984</i>
NT	Northern Territory
Provide to the Minister	Anything required to be provided to the Minister should be provided to DEPWS, as the agency administering the Regulations on behalf of the Minister
Regulations	Petroleum (Environment) Regulations 2016 (NT)
Regulator	Petroleum Operations unit within DEPWS

Contents

1. Introduction	1
2. Purpose and Scope	1
3. Completing the AEPR Template	1
3.1. General	1
3.2. Title Page	2
3.3. Version control	2
3.4. Declaration	2
3.5. Acronyms and terms.....	2
3.6. Introduction.....	2
3.7. Contents of performance report.....	3
3.8. Performance indicators	3
3.9. Evidence used to assess performance	3
3.10. Demonstration of performance	4
3.10.1. Compliance with Ministerial approval conditions.....	4
3.10.2. Compliance with environmental outcomes and performance standards	5
3.10.3. Compliance with reporting and monitoring requirements.....	5
3.11. Overall performance	6
3.11.1. Overview of performance	6
3.11.2. Overview of non-compliant items	6
4. Submission and publication of performance reports	7

1. Introduction

The Petroleum (Environment) Regulations 2016 (NT) (the **Regulations**) require an interest holder to provide a report to the Minister for Environment, Climate Change and Water Security (the **Minister**) on no less than an annual basis that outlines the environmental performance of the interest holder.¹ For simplicity, this report is called the Annual Environmental Performance Report (**AEPR**).

The AEPR must include sufficient information to allow the Minister to assess whether the interest holder has met the environmental outcomes and environmental performance standards included in the approved Environment Management Plan (**EMP**). The Regulations require an EMP to document the information required to be recorded, monitored or reported under the Regulations and any other law in force in the NT related to the conduct of the regulated activity. This information is used to demonstrate interest holders' environmental performance.

Provision of AEPRs is a regulatory requirement and provides information to the Minister on regulatory compliance.

2. Purpose and Scope

This Guideline has been developed pursuant to section 117C of the *Petroleum Act 1984* (the **Act**).

This Guideline provides guidance on how to complete the AEPR template, which is available on the [Onshore Gas website](#).

Guidance is provided to ensure that interest holders have a clear understanding of their annual regulatory reporting requirements and the evidence that must be provided to demonstrate claims of compliance.

The use of the AEPR template ensures that all interest holders are presenting information in a clear and consistent manner and claims of compliance can be audited.

3. Completing the AEPR Template

The following sections describe how to complete each section of the AEPR template.

3.1. General

An AEPR should be completed for each approved EMP, irrespective of whether there are multiple EMPs for regulated activities in the same petroleum title.

The AEPR template includes **blue text** (notes and instructions), **red text** (examples). **Black text** should be retained. All coloured text should be removed before submission of the AEPR.

Each part of the AEPR template must be completed.

¹ Petroleum (Environment) Regulations 2016 (NT) sch 1, item 11.

3.2. Title Page

The title page includes the following fields which must be completed:

- the reporting period
- the name of the interest holder/s
- the title of the EMP the AEPR applies to
- the unique EMP ID
- the petroleum title/s the approved EMP applies to.

3.3. Version control

The AEPR template includes a version control information box. The interest holder is to update this box to indicate date of submission, and reason for any subsequent modifications.

3.4. Declaration

The AEPR template includes a declaration, which must be signed by a person or persons who have legal authority to sign on behalf of the interest holder, or all interest holders if there is more than one entity listed on a petroleum interest. If there is more than one entity, and if no single person has authority to sign on behalf of all interest holders, each interest holder or a person authorised to sign the form on their behalf, must sign the declaration. The person/s signing are approving the contents of the AEPR and its submission to the Minister.

Note – confidential information (i.e. names of individuals and their phone numbers and email addresses) will be redacted prior to publication of the AEPR.

3.5. Acronyms and terms

The AEPR template includes a table for including all acronyms used in the AEPR. Interest holders should take care to ensure all acronyms used in the AEPR are included in this table. Commonly used abbreviations and terms are included in the AEPR template; these should be removed if not used. New rows should be added for additional acronyms or terms used in the AEPR.

3.6. Introduction

The Introduction includes required introductory text, which provides the context for the AEPR. This should not be altered.

Following the required text, the interest holder should complete the table 'Approved Environment Management Plan Details'.

Note:

- The AEPR period should clearly align with the approval date of the EMP. Schedule 1, item 11(1)(b) of the Regulations requires the AEPR to be provided at approved intervals, but not less often than annually. The first AEPR is to cover no more than the 12 month period from the date of approval of the EMP. Subsequent AEPRs are to cover no more than 12 month periods thereafter.

- If an interest holder has submitted a notice of modification to the regulated activity (regulation 22), or a notice of a change to the existing environment (regulation 23), these notices form part of the approved EMP and must be listed and assessed in the AEPR. The date the Minister acknowledged the notice must also be referenced. Additional rows may be added as required for regulation 22 or 23 notices.
- A figure showing the location of the regulated activity must be attached to the AEPR. The figure must be suitably detailed and sized, and up-to-date, location map/s to provide context, which includes:
 - any modifications under regulation 22 or changes to the existing environment (regulation 23) acknowledged by the Minister (e.g. change to location of access track)
 - the actual layout of well pads (as opposed to the predicted layout in the approved EMP).
- The regulated activities undertaken during the reporting period must be listed. Additional rows may be added as required.
- A gantt chart or table must be attached to the AEPR, which clearly illustrates:
 - the proposed timing for the regulated activity as described in the EMP
 - the actual timing of the regulated activity as conducted
 - any parts of the regulated activity that were planned but not completed.

3.7. Contents of performance report

Interest holders must indicate in the table provided which information was used to determine performance. It is expected that all of these will be selected to comprehensively inform completion of the AEPR.

3.8. Performance indicators

The AEPR template includes required text, which must not be altered. These are the indicators which must be used to assess performance in the tables in Section 2 of the template.

When assessing performance, interest holders should note the following requirements which may be overlooked:

- Any non-compliances detected by the regulator or the interest holder during inspections, investigations or audits must be noted as non-compliances in the AEPR.
- Any late submissions to meet Ministerial approval conditions or mandatory reporting requirements under the *Code of Practice: Onshore Petroleum Activities in the Northern Territory* (the **Code**) or Regulations must be noted as non-compliances in the AEPR.
- Any recordable incident reports that reported non-compliance with an environmental performance standard or environmental outcome must be noted as non-compliances in the AEPR.

3.9. Evidence used to assess performance

Here the interest holder must indicate the evidence used to inform the assessment of performance. Interest holders should review the measurement criteria listed in the approved EMP. Evidence must be current (obtained within the reporting period) and should include all of the following, as applicable, during the reporting period:

- interest holder self-assessments of compliance, through:
 - daily and weekly inspections, as committed to in the EMP
 - internal audits, as committed to in the EMP
 - external audits conducted by the regulator or third parties
- outcomes of inspections conducted by the regulator
- entries into the corporate spill register
- monitoring or other reports provided to DEPWS, the Department of Industry, Tourism and Trade (DITT) and other government agencies as required by the EMP, and
- monitoring outcomes.

All forms of evidence must be used to demonstrate performance. For example, it is not sufficient to only consider the outcome of interest holder weekly inspections when assessing interest holder performance.

3.10. Demonstration of performance

This section of the AEPR template has three tables to be completed, addressing:

1. compliance with Ministerial approval conditions
2. compliance with environmental outcomes and environmental performance standards as described in the EMP
3. compliance with monitoring and reporting requirements.

Each of these are discussed separately in the following sections.

For all tables, the evidence provided must be directly relevant to the requirement. Interest holders should avoid:

- referring to the text in the EMP as evidence
- making evidentiary statements that are not related to the requirement
- responding to part of a requirement only
- stating a report was provided but not to whom or on what date
- making statements that are vague and/or misleading.

The AEPR is an opportunity for interest holders to identify where improvements to internal processes may be required to ensure future compliance. Where a non-compliance has occurred it should be clearly acknowledged to avoid committing an offence under s 109 of the Act (false and misleading statements to the Minister).

3.10.1. Compliance with Ministerial approval conditions

Table 2 of the AEPR template includes example text (in red font) and notes (in blue font) to guide interest holders as to the type of information which should be included. **Black text** must be retained. **This example text must be deleted prior to submitting an AEPR.**

To complete this table, interest holders must include all Ministerial approval conditions. Where a condition has multiple different parts, each part should be addressed individually.

Additional rows should be added as required and each row must be numbered.

3.10.2. Compliance with environmental outcomes and performance standards

Table 3 of the AEPR template includes example text (in red font) and notes (in blue font) to guide interest holders as to the type of information which should be included. **Black text** must be retained. **This example text must be deleted prior to submitting an AEPR.**

To complete this table, interest holders must include all environmental outcomes and environmental performance standards included in the approved EMP. This should include:

- any new environmental outcomes and/or environmental performance standards established as part of a modification notice (regulation 22) or a change to the existing environment notice (regulation 23)
- environmental outcomes and environmental performance standards included in sub-plans to the EMP, such as the rehabilitation plan, spill management plan, emergency contingency plan or wastewater management plan.

When considering the evidence to be used, the interest holder should refer to the measurement criteria for each environmental performance standard, as described in the EMP. For older EMPs, which may not clearly state the environmental outcomes, environmental performance standards and measurement criteria, guidance should be sought from DEPWS as to how best to address these, based on the EMP.

Additional rows should be added as required and each row must be numbered.

3.10.3. Compliance with reporting and monitoring requirements

Table 4 of the AEPR template includes example text (in red font) and notes (in blue font) to guide interest holders as to the type of information which should be included. **Black text** must be retained. **This example text must be deleted prior to submitting an AEPR.**

The examples demonstrate how to identify:

- where commitments made in an approved EMP should be included
- where commitments made to demonstrate compliance with the mandatory requirements of the Code should be included.

Although some older EMPs may have been approved before the Code was mandated (i.e. approved before 11 June 2019), the requirements of the Code are applicable to all regulated activities.² The table only includes Code requirements relevant to environmental protection.

For clarity on Code requirements, interest holders should note the following:

- records of wastewater produced are required regardless of whether a regulated activity includes hydraulic fracturing
- greenhouse gas emissions from the regulated activity are required to be reported regardless of whether threshold levels mandated by the Commonwealth government are exceeded

² *Petroleum (Environment) Regulations 2016* (NT) sch 1 item 10(2) states legislative requirements includes the requirement to comply with an approved code of practice.

- greenhouse gas emissions are to be reported by the interest holder inclusive of those greenhouse gas emissions that may have been generated by a contractor as the interest holder must provide a report that includes all emissions from the regulated activity
- reference to a report being provided should also include information on who the report was provided to and the date it was provided
- reference to monitoring being undertaken should also include information on the date/s it was undertaken
- the 'N/A' category should be used for items which have not yet been triggered (e.g. due date outside of the reporting period) and a statement included in the evidence column stating the requirement has not yet been triggered and detail why it has not been triggered.

While DEPWS may be contacted for guidance, the onus for ensuring interest holders understand when requirements from the Code apply rests with the interest holder.

In addition to the requirements from the Code, this table must also include:

- all commitments made in the EMP in relation to provision of reports
- all commitments made in the EMP in relation to monitoring.

As the AEPR is to be published, the AEPR should not be submitted with attachments, other than where indicated. If data or records are required to be provided in accordance with the Regulations and Code, these should be provided separately and the AEPR should state the date they were provided and to which agency.

3.11. Overall performance

This section of the AEPR template:

- summarises the overall performance
- discusses whether there has been an environmental impact as a result of a non-compliance, and therefore whether the environmental outcome has been achieved
- identifies immediate corrective actions for any non-compliance
- identifies opportunities for improvement in interest holder performance.

The following sections explain the requirements for each part.

3.11.1. Overview of performance

This part of the AEPR template has required text and should not be altered other than to add in the number and percentage of compliant, non-compliant and non-applicable requirements.

3.11.2. Overview of non-compliant items

This section includes tables which must be completed to provide an overview of any non-compliances identified and resultant environment harm, as applicable.

Where there are non-compliances reported, each sub-section should include:

1. a succinct description of the non-compliance and whether the interest holder was compliant for some part of the reporting period, as applicable

2. the evidence used to detect the non-compliance (including if it was the regulator that identified the non-compliance)
3. an analysis of potential environmental harm or impact caused by the non-compliance with reference to:
 - a. multiple lines of evidence e.g. data from routine monitoring, the results of any additional monitoring undertaken in response to the non-compliance
 - b. any actions taken to remediate and rehabilitate the affected areas
4. if no environmental harm or impact, how this was determined
5. if an administrative non-compliance, how it was detected
6. a description of the corrective actions taken to address the non-compliance and any further actions still required, as applicable, to ensure compliance is fully achieved in the future.

4. Submission and publication of performance reports

AEPRs are to be submitted to DEPWS via Onshoregas.DEPWS@nt.gov.au by the due date. All AEPRs are due within 90 days of the end of the reporting period.

On submission, DEPWS will check the AEPR to ensure:

- It is complete and conforms to the template and this Guideline.
- There are no misleading statements.
- The evidence provided supports the regulatory requirement.
- The correct indicator of performance has been allocated to all items.

If a submitted AEPR is assessed as not complying with the reporting requirements, the interest holder will be notified the AEPR is required to be amended. If a resubmitted AEPR is found to still contain errors of fact, any regulatory response will be in line with the [Compliance and Enforcement Policy](#) and [Enforcement Guideline](#).

AEPRs will be published on the [Onshore Gas website](#) within 14 days of receipt, in accordance with regulation 25(1) of the Regulations. Confidential information within the AEPR, as identified by the interest holder, will be redacted prior to publication.