

# Frequently asked questions on operator nomination

Document No: N-01000-GL0019 A15273

Date: 30/06/2023

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## 1. Introduction

This guideline provides answers to frequently asked questions (FAQs) from the offshore petroleum industry in relation to the operator nomination and registration process.

## 2. Scope of this guideline

The scope of this guideline is limited to 'facilities' as defined in Clauses 3 and 4 of Schedule 3 to the Commonwealth *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (OPGGS Act) and relevant State and Northern Territory equivalents where powers have been conferred on NOPSEMA (currently only Victoria).

The text contained in this guideline forms the basis for a FAQs guideline for operators of facilities nominated under the Commonwealth Offshore Petroleum and Greenhouse Gas Storage (Safety) Regulations 2009 (the "Safety Regulations") and the Victorian Offshore Petroleum and Greenhouse Gas Storage Regulations 2021.

## 3. Relevant regulations

Commonwealth Safety Regulations [regulation 2.1, 2.3, 2.4 and 2.43].

Similar regulations apply to facilities in states and NT designated coastal waters where the states and the NT have made legislation that mirrors the Commonwealth legislation. References to regulatory requirements in this document are in relation to Commonwealth legislation.

## 4. Frequently asked questions

### 4.1. Will my vessel or structure be a facility?

The definition of what constitutes a facility is contained in Clause 4 of schedule 3 to the OPGGS Act. This definition is further qualified by regulation 1.6 of the Safety Regulations. Key aspects of the definition are that the vessel or structure is located at a site in Commonwealth waters and is being used, or prepared for use at that site for one or more specific activities.



*Further Information is available in the NOPSEMA Guidance Note:*

***"Vessels subject to the Australian Offshore Petroleum Safety Legislation"***

### 4.2. Who is the operator of a facility?

In the context of Schedule 3 to the OPGGS Act, the operator of a facility is the person that has day-to-day management and control of the facility and its operations [regulation 2.3] where a 'person' is often an

organisation. The operator, in relation to a facility or proposed facility, is the person who, under the regulations, is registered by NOPSEMA as the operator of that facility or proposed facility.

### **4.3. Who nominates the operator of a facility?**

The titleholder or facility owner may make a nomination to NOPSEMA as to the operator of a facility or proposed facility [regulation 2.1]. Where the facility is directly associated with a title or licence (e.g. production facilities, pipelines, etc.) NOPSEMA expects the titleholder (or licensee) to make the nomination. Where there is no direct association with a title (e.g. mobile facilities, construction vessels, etc.) NOPSEMA expects that the nomination will be made by the facility owner.

For facilities that are pipelines in Commonwealth waters, it is NOPSEMA policy that the operator nomination must be made by the pipeline licensee.

### **4.4. Who decides on whether the nomination is accepted?**

NOPSEMA accepts or rejects operator nominations on the basis of the day-to-day management and control of the facility and its activities [regulation 2.3].

### **4.5. What are the criteria for NOPSEMA's decision?**

It is intended that NOPSEMA's acceptance/rejection of an operator of a facility will be based on regulation 2.3 by considering the extent of overall authority over the issues subsequently addressed in the safety case including, for example, the safety management system (SMS), management and control of plant, equipment, systems of work, procedures and equipment for emergencies, workforce and information.

### **4.6. What happens after NOPSEMA's decision regarding the operator of a facility?**

NOPSEMA must notify the owner or titleholder and the nominated operator of its decision. NOPSEMA must provide the reasons for rejecting a nomination [regulation 2.3]. NOPSEMA must maintain a register of operators and can remove an operator's name from the register if it believes that the operator does not have day-to-day control of the facility and operations at the facility [regulation 2.4(4)].

### **4.7. What are the duties of the operator of a facility?**

The operator has a duty to take all reasonably practicable steps to ensure the facility is safe and all work and other activities are carried out in a safe manner and without risk to people's health [OPGGs Act Schedule 3 Clause 9]. A facility must have a registered operator [regulation 2.43].

### **4.8. What is the background to these duties?**

The Ministerial Council on Mineral and Petroleum Resources endorsed a set of principles for regulation of safety of offshore petroleum operations. These principles included a legislative framework that is clear and enforceable and that requires operators to discharge their responsibilities for safety. Defining and placing duties on the operator, who is the person most able to control the risk at the facility, brings clarity and strength to the regulatory regime.

#### **4.9. What are some of the matters for which the operator is responsible?**

The facility operator is responsible for operating the facility consistent with the safety case [regulation 2.44, 2.45]. The operator for a facility must submit the safety case for the facility to NOPSEMA [regulation 2.24].

#### **4.10. Do these duties cover all parts of the facility and its operations?**

In the context of the overarching duties of the operator of a facility, there can be parts of a facility or particular work for which other people may be in control. These people also have duties [OPGGs Act Schedule 3 Clause 10] which are similar to those of facility operators.

#### **4.11. How are these roles and responsibilities documented?**

The various activities at the facility and their associated roles and responsibilities of the parties, as set out in the SMS, are to be described in the facility safety case.

#### **4.12. What does the facility operator do about areas in which they do not have expertise?**

The operator must assess and be assured that parties in control of a part of a facility or doing particular work (and introducing risk or risk contributors) have identified the hazards, assessed the risk, and have controls in place such that the risk is as low as reasonably practicable (ALARP). For example, this means that drilling contractors must develop the skills to assess the SMS of parties whose operations introduce risk and be assured that these parties are capable of adequately managing those risks. These arrangements must be described in the facility safety case.

*Please note the questions and answers provided in this Guideline are guidance only, based on NOPSEMA's current understanding of the issues. The answers provided must not be considered as legal advice. For proper legal advice on the regulations, interested parties should seek professional legal opinion.*