

# Replacement of a registered operator for an operating facility

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## 1. Introduction

This guidance note is intended for titleholders or facility owners considering replacing the existing operator of a facility with a different operator (i.e. a separate legal entity). A replacement may result from a transfer of ownership of the facility, or from an owner or titleholder nominating another party to act as the operator of the facility. The guidance refers to the concept of a *proposed operator* as defined in regulation 1.5 of the Offshore Petroleum and Greenhouse Gas Storage (Safety) Regulations 2024 (Safety Regulations) associated with the *Offshore Petroleum and Greenhouse Storage Act 2006* (the Act). This guidance does not apply to changes in operator or facility names that are purely administrative.

## 2. Scope of this guidance

The guidance note addresses the nomination and registration of a replacement operator (the proposed operator) and the removal of the existing operator from NOPSEMA's operator register. It also outlines the requirement for the proposed operator to submit a new safety case for the existing facility, as the new safety case must reflect the specific arrangements and commitments of the proposed operator that is intending to replace the existing operator of the facility.

The guidance considers requirements for *facilities* (including pipelines that are facilities) under the Safety Regulations. It also covers equivalent regulations under State and Northern Territory legislation where powers have been conferred on NOPSEMA. Unless otherwise specified, references to regulations in this guidance note refer to Commonwealth regulations.

## 3. Key principles

The following regulatory requirements form the key principals for this guidance note:

- **A new safety case is required from the proposed operator if they intend to replace the existing operator of a facility.**

A number of content requirements of the safety case are operator-specific, for example:

- "The safety case must describe... the means by which the operator will ensure that... the offices or positions mentioned in sub-regulation (1) are continuously occupied..." [regulation 2.8(2)].
- "The safety case for a facility must describe the means by which the operator will ensure that each member of the workforce at the facility has the necessary skills, training and ability..." [regulation 2.9].

- “The safety case for a facility must provide for the operator of the facility to establish and maintain a documented system of coordinating and controlling the safe performance of all work activities of members of the workforce at the facility...” [regulation 2.10].
- “The safety case for a facility must describe the means by which the operator will ensure the adequacy of the design, construction, installation, maintenance or modification of the facility...” [regulation 2.12].

Consequently, any change of operator for a facility requires the proposed operator to submit a new safety case, under regulation 2.24. Although a change in facility operator will often lead to a significant change to the Safety Management System (SMS) – which may itself trigger a safety case revision under regulation 2.30 – the primary reason for a new safety case submission is the change in operatorship. This invokes a 90-day legislated assessment period in accordance with regulation 2.27.

- **There can be only one operator at any point in time for an operating facility.**

Both Schedule 3 to the Act and the associated Safety Regulations place OHS-related legal obligations on the operator of a facility. However, these obligations – some of which carry penalty provisions – do not take effect for the proposed operator until they become the operator of the facility. Furthermore, the Act does not permit more than one operator to undertake activities in relation to a facility at any one time.

- **Only the current facility owner or titleholder may nominate a person to replace the existing operator of a facility** [regulation 2.4A].

## 4. Registration of a new operator and removal of an existing operator

The transition of a proposed operator to becoming the operator of a facility occurs when the proposed operator notifies NOPSEMA of their intent to replace the existing operator [regulation 2.4C(2)]. The notice must specify the date of transition, which must be at least five days after the notice is given to NOPSEMA, unless a different date is agreed between NOPSEMA and the proposed operator.

The sequence leading up to and including the transition is as follows:

1. The current titleholder or facility owner nominates a person (the proposed operator) to replace the existing operator of the facility [regulation 2.4A(1)], using form **N-01000-FM0008** (Nomination form: Operator of a facility).
2. NOPSEMA will accept the nomination of the proposed operator if it is satisfied that the nominee will have day-to-day management and control of the facility and its operations [regulation 2.4B(1)].
3. If NOPSEMA accepts the nomination, it will register the nominee as the proposed operator of the facility and notify both the nominating titleholder or facility owner, and the proposed operator, of its decision [regulations 2.4B(4), 2.4B(5)].
4. Once registered, the proposed operator may submit a safety case for the facility under regulation 2.24.
5. If NOPSEMA decides to accept the safety case and notifies the proposed operator under regulation 2.27, the proposed operator must then notify NOPSEMA in writing of their intent to replace the existing

operator on a specified date. This date must be no fewer than five days after the notice is given, unless a different date is agreed with NOPSEMA [regulation 2.4C(2)].

6. On the date specified in the notification under regulation 2.4C(2), NOPSEMA will:
  - a. Register the proposed operator as the operator (new operator) of the facility.
  - b. Publish the name of the new operator on the Register of Operators on the NOPSEMA website.
  - c. Remove the new operator's name from the Register of Proposed Operators for the facility.
  - d. Remove the previous operator's name from the Register of Operators for the facility.

Once the proposed operator is registered as the operator of the facility, the accepted safety case comes into force, and the previous safety case for the facility ceases to be in force.

## 5. Submission of the facility safety case from the proposed operator

A proposed operator is required to submit a safety case for the facility where they intend to assume operational control from an existing operator at a future date. The reason for this is that any acceptance of a safety case for a facility is intrinsically linked to the specific operator who submits the safety case.

NOPSEMA recommends that the proposed operator follow the process outlined below to propose a change of operatorship for an existing facility:

1. **Agree transitional arrangements:** The existing operator and the proposed operator should agree on any transitional arrangements required to manage changes that may affect the safe operation of the facility. For example, these arrangements might address organisational changes and the introduction of the new operator's Safety Management System (SMS). They may also include additional safeguards to be applied during the transition period. It is recommended that these arrangements are described in the safety case submitted by the proposed operator.
2. **Seek agreement on scope of validation:** The proposed operator must seek agreement from NOPSEMA on the scope of validation for the facility prior to submitting the safety case. Where no changes are proposed to the physical nature of the facility—particularly the technical controls for managing risks associated with Major Accident Events—the scope of validation may be agreed as 'nil'.
3. **Submit the safety case at least 90 days prior to transition:** The proposed operator must submit the safety case to NOPSEMA at least 90 days prior to the intended date of operator replacement. This ensures the safety case is accepted and in force when the new operator assumes day-to-day management and control of the facility. This requirement ensures compliance with Regulation 2.45 of the Offshore Petroleum and Greenhouse Gas Storage (Safety) Regulations 2024, which prohibits operating a facility in a manner contrary to the accepted safety case for the relevant stage of the facility's lifecycle. *Note: The outgoing operator is considered to no longer have day-to-day management and control of the facility once their name has been removed from the Register of Operators for that facility.*
4. **Safety case assessment by NOPSEMA:** NOPSEMA will assess the submitted safety case and notify the proposed operator in writing of its decision to accept or reject the safety case, in accordance with regulations 2.26 and 2.27.

If NOPSEMA notifies the proposed operator of its decision to accept the safety case, the proposed operator must then notify NOPSEMA in writing of the date on which they intend to replace the existing operator of the facility, in accordance with regulation 2.4C(2), and as described in section 4.

## **6. Related documents**

N-01000-FM0617 – Removal of existing facility operator from operator register

N-01000-FM0008 – Nomination form: Operator of a facility