

Operator and Proposed Operator nomination, registration and deregistration

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1. Purpose

This policy document outlines the general principles applied by the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) when receiving operator nominations and when registering or deregistering an *operator* or a *proposed operator*. This policy has been drafted with consideration of the relevant legislation.

The *operator* of a facility is the person who has the day-to day management and control of the facility and its operation, and who is registered as the *operator* by NOPSEMA. The *proposed operator* is the person nominated by the facility owner or titleholder to replace the existing operator at a future date. Note: Facilities include licensed pipelines.

Schedule 3 to the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (OPGGs Act), and the relevant State and Northern Territory equivalents, where powers have been conferred on NOPSEMA, place duties on the *operator* of a facility. The Offshore Petroleum and Greenhouse Gas Storage (Safety) Regulations 2024 (Safety Regulations), and the relevant State and Northern Territory equivalents also place regulatory obligations on operators. This policy describes the principles that NOPSEMA will apply when administering the nomination, registration and deregistration of operators and proposed operators in accordance with the abovementioned legislation.

2. Scope

This policy applies to the operator and proposed operator nomination, registration and deregistration under the Safety Regulations and the relevant state and Northern Territory equivalents, where powers have been conferred on NOPSEMA.

3. Relevant legislation

Offshore Petroleum and Greenhouse Gas Storage Act 2006.

Offshore Petroleum and Greenhouse Gas Storage (Safety) Regulations 2024

It should be noted that, dependant on the location of a facility, state or territory legislation may apply, which may or may not mirror the Commonwealth legislation. For simplicity, this policy only makes explicit reference to the Commonwealth legislation, however, this policy will be applied equally, regardless of jurisdiction, where powers have been conferred on NOPSEMA.

4. NOPSEMA's legislative obligation

NOPSEMA has a legislated function under Section 646 of the OPGGS Act to provide advice on occupational health and safety matters relating to offshore petroleum operations or offshore greenhouse gas storage

operations. As part of this legislated function, NOPSEMA is committed to being responsive to operators' information needs during the safety case assessment process. This includes engagement with the *operator* or the *proposed operator* from the early stages of introduction to the regime through to commencing activities. Where appropriate, NOPSEMA will develop a safety case engagement plan in accordance with N-04300-SOP0112 and N-04300-FM0784.

4.1. Operator nomination and registration

A facility owner or titleholder may give NOPSEMA a written notice nominating a person to be the operator of a facility [Safety Regulations, regulation 2.1(1)], or to nominate a person (the proposed operator) to replace the existing operator of a facility [Safety Regulations, regulation 2.4A(1)].

It is NOPSEMA policy that for licensed pipelines located in Commonwealth waters, or relevant State or Northern Territory designated coastal waters where powers have been conferred on NOPSEMA (e.g. Victorian designated coastal waters), the operator nomination must be made by the pipeline licensee.

When NOPSEMA receives a written notice nominating a person to be the operator or to replace the existing operator, it:

- **Must accept** the nomination if it is satisfied that the person will have day-to-day management and control of the facility or proposed facility and its operations [Safety Regulations, regulation 2.3(1) or 2.4B(1)].
- **Must reject** the nomination, if not satisfied of the matters identified above [Safety Regulations, regulation 2.3(2) or 2.4B(2)].
- **Must register** the nominee as the operator of the facility or proposed facility, if the nomination is accepted and there is no existing operator for the facility [Safety Regulations, regulation 2.3(4)], or
- **Must register** the nominee as the proposed operator of the facility or proposed facility, if the nomination is accepted, but there is an existing operator of the facility [Safety Regulations, regulation (2.4B(4))].

When accepting or rejecting the nomination, NOPSEMA must notify the owner or titleholder who made the nomination, as well as the nominee [Safety Regulations, regulation 2.3(5) or 2.4B(5)]. If the decision is a rejection, the reasons must be given.

4.2. Register of operators and proposed operators

NOPSEMA must maintain a Register of Operators [Safety Regulations, regulation 2.4(1)] and a Register of Proposed operators [Safety Regulations, regulation 2.4E(1)]. NOPSEMA will publish the names of operators, proposed operators, and facilities, including their address, on its website at nopsema.gov.au.

4.3. Deregistration operators or proposed operators

NOPSEMA must remove the name of the operator from the Register of Operators, or the name of the proposed operator from the Register of Proposed operators, under any of the following events:

- Upon receipt of written notice from the titleholder or owner of the facility, who nominated the person to be the operator or proposed operator, stating that the person has ceased to have, or will no longer have, day-to-day management and control of the facility [Safety Regulations, regulation 2.4(2)], or regulation 2.4E(2)]

- If the operator or proposed operator is a foreign company and ceases to be registered under Division 2 of Part 5B.2 of the *Corporations Act 2001*, and they have given NOPSEMA written notice that they have ceased to be registered [Safety Regulations, regulation 2.4(3) or regulation 2.4E(3)].
- If NOPSEMA reasonably believes that the operator or proposed operator has ceased to be registered under Division 2 of Part 5B.2 of the *Corporations Act 2001* and NOPSEMA has given notice of its intention to remove the operator or proposed operator from the register to:
 - a. The facility owner or titleholder who nominated the operator or proposed operator under Safety Regulations regulation 2.1(1), or regulation 2.4A(1); and
 - b. The operator or proposed operator of the facility [Safety Regulations, regulations 2.4(5)(b) and regulation 2.4(6)] or regulations 2.4E(5)(b) and 2.4E(6).
- Where NOPSEMA has:
 - a. Given notice of its intention to remove the operator or proposed operator from the register to the facility owner or titleholder who nominated the operator or proposed operator, and to the operator or proposed operator of the facility [Safety Regulations, regulation 2.4(6) or regulation 2.4E(6)]; and
 - b. Considered any representations made by the facility owner, titleholder, operator or proposed operator within 30 days of the notice being issued [Safety Regulations, regulation 2.4(7)(b) or regulations 2.4E(7)(b)]; and
 - c. Continued to believe, on reasonable grounds:
 - i. That the operator no longer has, or will not have, day-to-day management and control of the facility and its operations [Safety Regulations, regulation 2.4(7)(c)(i) or regulation 2.4E(7)(c)(i)]; or
 - ii. If the operator is a foreign company, that they have ceased to be registered under Division 2 of Part 5B.2 of the *Corporations Act 2001* [Safety Regulations, regulation 2.4(7)(c)(ii) or regulation 2.4E(7)(c)(ii)].
- NOPSEMA has received written notice from the proposed operator of a facility, stating their intent to replace the existing operator of that facility, on a specific day [Safety Regulations, regulation 2.4D(1)].

Note: The regulations contain natural justice provisions in cases where NOPSEMA proposes to remove an operator from the register. NOPSEMA must give notice of its intention to the person who nominated the operator. The nominating party then has 30 days to make representations to NOPSEMA explaining why the operator should not be removed, or to nominate an alternative operator.