



Guideline

Frequently Asked Questions on Operator Nomination

1 Introduction

This guideline sets out suggested responses to a range of frequently asked questions from operators in relation to the Operator Nomination process under the *Petroleum (Submerged Lands) (Management of Safety on Offshore Facilities) Regulations 1996* (MoSOF) and the *Petroleum (Submerged Lands) (Pipelines) Regulations 2001* (Pipelines).

2 Scope of this Guideline

The text contained in this guideline forms the basis for a Frequently Asked Questions (FAQ) guideline for operators nominated for a facility under MoSOF Regulations or a pipeline under the Pipeline Regulations.

3 Relevant Regulations

Petroleum (Submerged Lands) (Management of Safety on Offshore Facilities) Regulations 1996
[Regulation 6, 7, 8 & 47]

Petroleum (Submerged Lands) (Pipelines) Regulations 2001
[Regulation 6B, 6C, 6D & 6E]

Similar regulations apply in coastal waters where States/NT have made legislation that mirrors Commonwealth legislation. In general, references to regulatory requirements in this document are in relation to Commonwealth legislation.

4 Frequently Asked Questions

Who is the operator for a facility?

In the context of the Offshore Petroleum and Greenhouse Gas Storage Act, Schedule 3, the operator for a facility is the person that has day-to-day management and control of the facility and its operations [MoSOF Reg 7], where a person could be an organisation.

Who nominates the operator for a facility?

The titleholder or the facility owner nominates an operator to NOPSA [MoSOF Reg 6]. We are expecting facility owners to nominate an operator for mobile facilities. Form letters have been sent out to potential nominators.

Who decides on whether the nomination is accepted?

NOPSA accepts or rejects operator nominations on the basis of MoSOF 7.

What are the criteria for NOPSA's decision?

It is intended that NOPSA's acceptance/rejection of an operator of a facility will be based on MoSOF 7 by considering the extent of overall authority over the issues addressed in the safety case including, for example, the safety management system, management and control of plant, equipment, systems of work, procedures and equipment for emergencies, workforce and information.

What happens after NOPSA's decision regarding the operator of a facility?

NOPSA must notify the owner or titleholder and the nominated operator of its decision. NOPSA must provide the reasons for rejecting a nomination [MoSOF Reg 7]. NOPSA 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 [MoSOF Reg 8].

What happens during the transition period if no-one is nominated?

MoSOF 60 outlines transitional provisions in which the titleholder is operator of the facility until 1st April 2005, or until someone else is registered – whichever happens earlier. Thereafter, there is no operator unless they have been accepted and subsequently registered by NOPSA as the operator of the facility [MoSOF Reg 7].

What happens after 1st April 2005?

After 1st April 2005, an operator must be a registered operator [MoSOF Reg 5]. A facility must have a registered operator. If no operator has been registered the penalty provisions of MoSOF 47 may apply.

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 [OPGGSA Schedule 3 Clause 9]. A facility must have a registered operator [MoSOF Reg 47].

What is the background to duties of care?

The Ministerial Council on Mineral and Petroleum Resources (MCMPR) 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.

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 [MoSOF Reg 48, 49]. The operator for a facility must submit the safety case for the facility to NOPSA [MoSOF Reg 28]. The facility must be managed and controlled through a safety management system (SMS) that is comprehensive and integrated, provides for all activities and reduces risk to ALARP [MoSOF Reg 9]. The safety case must demonstrate that there are effective means for ensuring the implementation of the SMS [MoSOF Reg 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 [OPGGSA Schedule 3 Clause 10] which are similar to those of facility operators.

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 safety management system, are to be documented in the safety case for the facility.

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 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 documented in the safety case.

Please note these Questions and Answers are provided as Guidance only, based on NOPSA's current understanding of the issues. These answers must not be considered as legal advice. For proper legal advice on the Regulations, interested parties should seek professional legal opinion.

5 Related Documents

N-01000-PL0002 – Operator Nomination and Registration Policy
N-01000-FM0065 – Worksheet for Analysis of Operator Status
N-01000-FM0009 – Operator Registration Decision Record