



Department of Local Government,
Industry Regulation and Safety



WorkSafe
Western Australia
Petroleum Safety

GUIDE

Nomination, registration and replacement of an operator

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Reference

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This publication was produced by WorkSafe Western Australia using information contained within the National Offshore Petroleum Safety and Environmental Management Authority's (NOPSEMA) suite of guidance notes on nomination of operators.

Foreword

All onshore and offshore petroleum and geothermal energy operations within Western Australia's jurisdiction are subject to the requirements of the:

- *Work Health and Safety Act 2020* (the WHS Act)
- Work Health and Safety (Petroleum and Geothermal Energy Operations) Regulations 2022 (WHS PAGEO Regulations).

This legislation is implemented by the WorkSafe Petroleum Safety and Dangerous Goods Directorate (WorkSafe PSDGD), a division of the Department of Local Government, Industry Regulation and Safety (LGIRS).

Application

This Guide is a non-statutory document provided by WorkSafe PSDGD to assist persons subject to duties under the WHS Act to meet the WHS Act and the WHS PAGEO Regulations requirements administered by WorkSafe PSDGD.

Who should use this Guide?

This Guide has been developed to assist with the process of nominating an operator. Having an operator is a legal requirement for all petroleum or geothermal energy facilities.

For facilities outside the Western Australian waters, the WHS Act does not apply, and guidance should be sought from National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA). If a vessel does not fall under the definition of 'facility' in the WHS Act, operators should contact the Australian Maritime Safety Authority and Department of Transport.

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1 Introduction

This Guide provides comprehensive guidance on the nomination and registration process for operators of onshore and offshore petroleum, pipeline, and geothermal energy facilities under the Work Health and Safety (Petroleum and Geothermal Energy Operations) Regulations 2022 (WHS PAGEO Regulations).

No work is permitted on any petroleum or geothermal energy facility or operation unless the regulator has accepted the nomination of an operator, and the nominated operator has been officially added to the regulator's maintained register.

Each nomination type outlined in this Guide is accompanied by a process map, which provides a clear visual representation of the steps involved. A complete set of the process maps can be found in [Appendix 1](#).

It should be noted that this requirement supersedes any prior operator registrations that may have been submitted for pipeline licenses or petroleum and geothermal energy titles.

2 Nomination of an operator

WHS PAGEO Regulations r. 21
Nomination of operator

The nomination of an operator for a facility under the WHS PAGEO Regulations can be made by the nominator, who is defined as one of the following:

- the owner, charterer, or lessee of the facility
- the holder of a petroleum or geothermal title (including a pipeline license)
- a person approved by the Barrow Island Act Minister under Section 13(1) of the *Barrow Island Act 2003*.

An operator is typically an entity such as a company or corporation.

2.1 Duties of an operator

WHS Act Part 2
Health and safety duties

WHS PAGEO Regulations r. 8
Reference to person conducting a business or undertaking includes reference to an operator of a facility

Before submitting the nomination in writing to the regulator, the nominator must ensure that the nominee has accepted the nomination and will, or currently does, have day-to-day management and control of the facility for which they are being nominated.

The operator is classified as a person conducting a business or undertaking (PCBU) under the *Work Health and Safety Act 2020* (WHS Act), and when submitting the nomination, both the nominator and the nominee (nominated operator) must be aware that the operator of a facility also has obligations under the WHS Act.

Refer to the *The meaning of 'person conducting a business or undertaking' (PCBU): Interpretive guideline* for further information regarding duties under the WHS Act.

Part 2 of the WHS Act outlines the following:

- what is considered 'reasonably practicable' in ensuring health and safety
- the primary duty of care
- the duties of persons conducting businesses or undertakings with management or control over workplaces.

The registered operator is responsible for submitting safety cases to the regulator under the WHS PAGEO Regulations. It is important to note that while a safety case may cover multiple facilities, all of these facilities must be under the control of the same operator.

Going forward, it is not permissible to submit safety cases that cover multiple facilities with different operators.

2.2 Submission of the nomination

WHS PAGEO Regulations r. 21
Nomination of operator

The nomination must be submitted in writing to the regulator. The [*Petroleum and Geothermal Energy Operations – Application for Facility Operator Registration*](#) form is available on the WorkSafe website.

Before the regulator can consider the application, the following details must be included in the written nomination:

- the nominee's name and contact details, including:
 - business address
 - telephone number during business hours
 - telephone number outside business hours
- the nominee's ABN and, if applicable, ACN
- the nominee's written consent to the nomination
- the name of the facility that is the subject of the nomination
- a brief description of the facility that is the subject of the nomination
- the name and position of an officer of the nominee, with sufficient authority to confirm, on behalf of the nominee, that they have day-to-day management and control of operations at the facility.

Once the application is complete and signed by both the nominee and nominator, it should be submitted to the regulator via email at petreps@lgirs.wa.gov.au. There is no need to submit a hard copy of the application.

If the application covers multiple facilities with the same nominee, a list detailing each facility can be attached to the submission. However, caution must be exercised when submitting applications for multiple facilities, as this is only acceptable if the nominator is the same for all facilities listed.

If the nominee is the same but the nominators differ for each facility, a separate application must be submitted for each facility.

2.3 Acceptance or rejection of a nominee

WHS PAGEO Regulations r. 22

Acceptance or rejection of person as operator

WHS PAGEO Regulations r. 23

Register of operators

Upon receipt of the application for operator registration, the regulator must review the application and decide whether to accept or reject it. The regulator must only accept the nomination if it is satisfied that the nominee will have day-to-day management and control of operations at the facility.

If the regulator accepts the nomination, the nominee will be registered as the operator of the facility, and both the nominator and the nominee will be notified of the decision. A decision will be made as promptly as possible after receiving the application.

The regulator must reject the nomination if they believe there are reasonable grounds to believe that the nominee will not have day-to-day management and control of the facility. If this occurs, the regulator must:

- notify both the nominator and nominee in writing of the rejection
- provide the reasons for the rejection.

The regulator maintains a register of operators. Once a nomination is accepted, the details of the new operator will be entered into this register. An operator will be removed from the register if the regulator is notified or determines that the operator no longer has day-to-day management and control of a facility.

2.4 Operator's representative

WHS PAGEO Regulations r. 24

Operator must ensure presence of operator's representative

Whenever one or more natural persons are involved in an operation at the facility, the operator must ensure that a representative with day-to-day management and control of the operation is always present.

The operator's representative may include, but is not limited to, the permit holder (an individual working alone or with a small team under a single permit to work), the operation shift manager for onshore petroleum or drilling facilities, or the offshore installation manager for offshore facilities.

If the operator is a natural person, they may also act as their own representative.

3 Removal of registered operator by the regulator

WHS PAGEO Regulations r. 23
Register of operators

The regulator may remove an operator's name from the register if, on reasonable grounds, they believe the operator no longer has day-to-day control of operations at a facility.

Before removing an operator from the register, the regulator must provide written notice of intention to the nominator and the operator, outlining the reasons for the decision. The notice must allow 30 days from receipt for the nominator or operator to make a written submission and respond to the decision.

If, after reviewing any written submissions, the regulator still believes, on reasonable grounds, that the operator does not and will not have day-to-day management and control of the facility, the operator's name will be removed from the register.

Once an operator's name is removed from the register, the operator ceases to be registered under the WHS PAGEO Regulations. Operations at the facility must cease until a new operator is nominated and the nomination is accepted by the regulator.

4 Registered operator ceases to have day-to-day management

WHS PAGEO Regulations r. 20

Facility must have operator

WHS PAGEO Regulations r. 23

Register of operators

If a registered operator has ceased or will cease to have day-to-day management and control of a facility, written notification (notification letter) must be submitted to the regulator by either the nominator or the registered operator. The notification letter must include the following details:

- the person submitting the notification
- the operator who will cease to have day-to-day management and control of operations at the facility
- the proposed incoming operator, if applicable.

Upon receipt of the notification letter, the regulator must remove the operator from the register.

If the facility continues to operate, an accepted nomination for the incoming operator must be in place to replace the operator being removed from the register. Operations must cease if the facility does not have an operator or if the nomination has not been accepted by the regulator.

If the facility's operations are changing in a way that the current registered operator no longer has the required expertise to maintain day-to-day management and control, the same process applies.

A new operator can be nominated through the process outlined in [Section 2](#). The facility may only resume operations once the incoming operator's nomination has been accepted by the regulator and entered into the register.

5 Replacement of a registered operator for an operating facility

WHS PAGEO Regulations r. 23
Register of operators

A change in the registered operator for a facility may occur for the following reasons:

- the current registered operator has ceased to have day-to-day management and control of the facility
- a change in the facility's operations requires a new nominee, such as transitioning from construction to operations or from operations to decommissioning
- a change in the owner, charterer, title holder or lessee, that necessitates a change of operator
- the regulator has reasonable grounds to believe that the registered operator may no longer have day-to-day management and control of the facility.

When replacing a registered operator, the following considerations must be made:

- only one operator can be registered for a facility at any given time
- a new safety case is required when an operator is replaced, as the contents of the safety case are specific to the operator
- a transition plan and a replacement operator date must be agreed upon between the incoming and outgoing operators to ensure the risk is reduced to so far as is reasonably practicable.

Given the above, when a change of operator for a facility is identified, it is essential to consult with the regulator regarding the proposed change. The regulator may request the transition plan as part of the safety case submission. The following criteria may be considered for the transition plan, including but not limited to:

- **Documentation handover:** Regulatory documents, maintenance records, integrity assessments, asset management data, incident reports, legal documents, and the Operations and Management manual.
- **Systems and processes:** Maintenance and inspection programs, and other relevant systems.
- **SCADA and communication systems:** Supervisory Control and Data Acquisition (SCADA) systems and associated communication systems.
- **Safety case acceptance plan:** Outline for safety case acceptance.
- **License transfer plan:** Including day 1 actions for the new operator.
- **Site inspection and handover:** Detailed site inspection and handover procedures.
- **Risk assessment:** Based on previous improvement plans and identifying any new risks.
- **Regulatory compliance and performance:** Previous compliance issues and performance records.
- **Design documentation:** Basis of design, detailed design records, and related information.

- **Previous risk assessments:** Review of past risk assessments and any necessary changes under new operatorship, ensuring alignment with current systems and processes.
- **Emergency response preparedness:** Plans and procedures for emergency response.
- **Integrity assessments and fitness for service:** Reviews and assessments related to equipment and facility integrity.
- **Maintenance records:** Including records for Cathodic Protection (CP), Inline Inspection (ILI), Direct Current Voltage Gradient (DCVG), Pressure Safety Valve (PSV) certificates, integrity inspections, EEHA inspections, earthing tests, etc.
- **Major maintenance/outage plan:** Planned major maintenance or outage schedules.
- **Land titles and landowner liaison:** Land titles, landowner communication, and encroachment data.
- **Equipment replacement plan:** Model and age of equipment for planning replacements.
- **Handover and transition schedule:** A detailed timeline for the handover process, including key milestones, responsibilities, and deadlines for the transition between the outgoing and incoming operators.

Adequate time must be allocated for the submission and acceptance of the proposed safety case for the facility affected by the change of operator. This can be facilitated by the informal acceptance of the proposed incoming operator by the regulator and the preliminary review of their safety case, bringing it to a stage where it can be formally accepted on the replacement date. All steps must be completed before the agreed operator replacement date to ensure that, on that date, the incoming operator is officially registered, the outgoing operator is removed, and the new safety case is formally accepted by the regulator.

During the transition phase, validation requirements should also be considered. If the incoming operator determines that there are no changes to the facility, including the controls for reducing risks associated with safety-critical elements and major accident events, the scope of validation can be marked as 'nil – no changes to facility or operations.'

The process maps included in [Appendix 1](#) outline the necessary steps to be completed both prior to and on the replacement date.

Appendix 1 Process maps

Nominate a new operator under WHS PAGEO Regulations

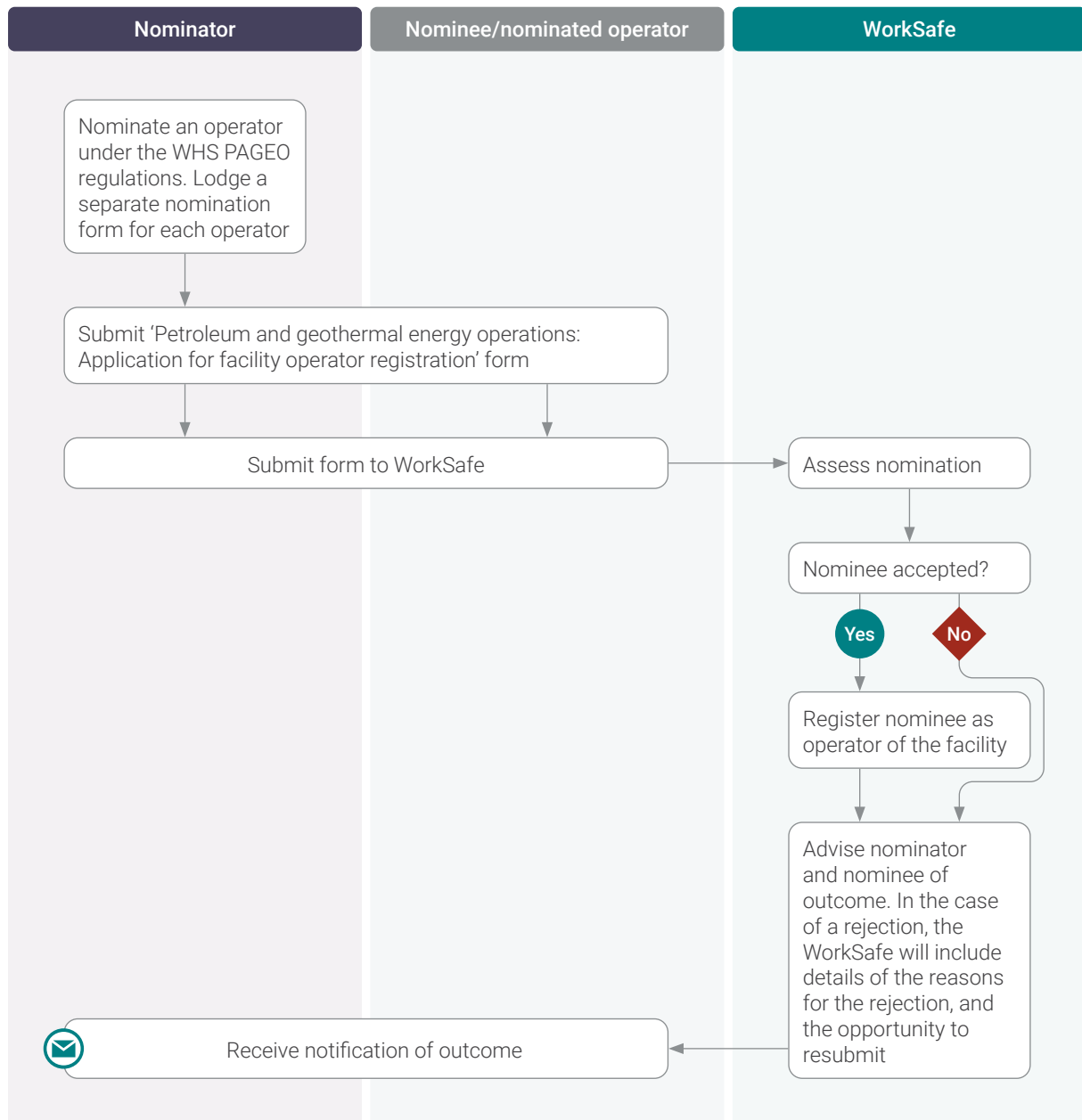


Figure 1 Nominate a new operator under WHS PAGEO Regulations

Registered operator ceases to have day-to-day management and control of operation

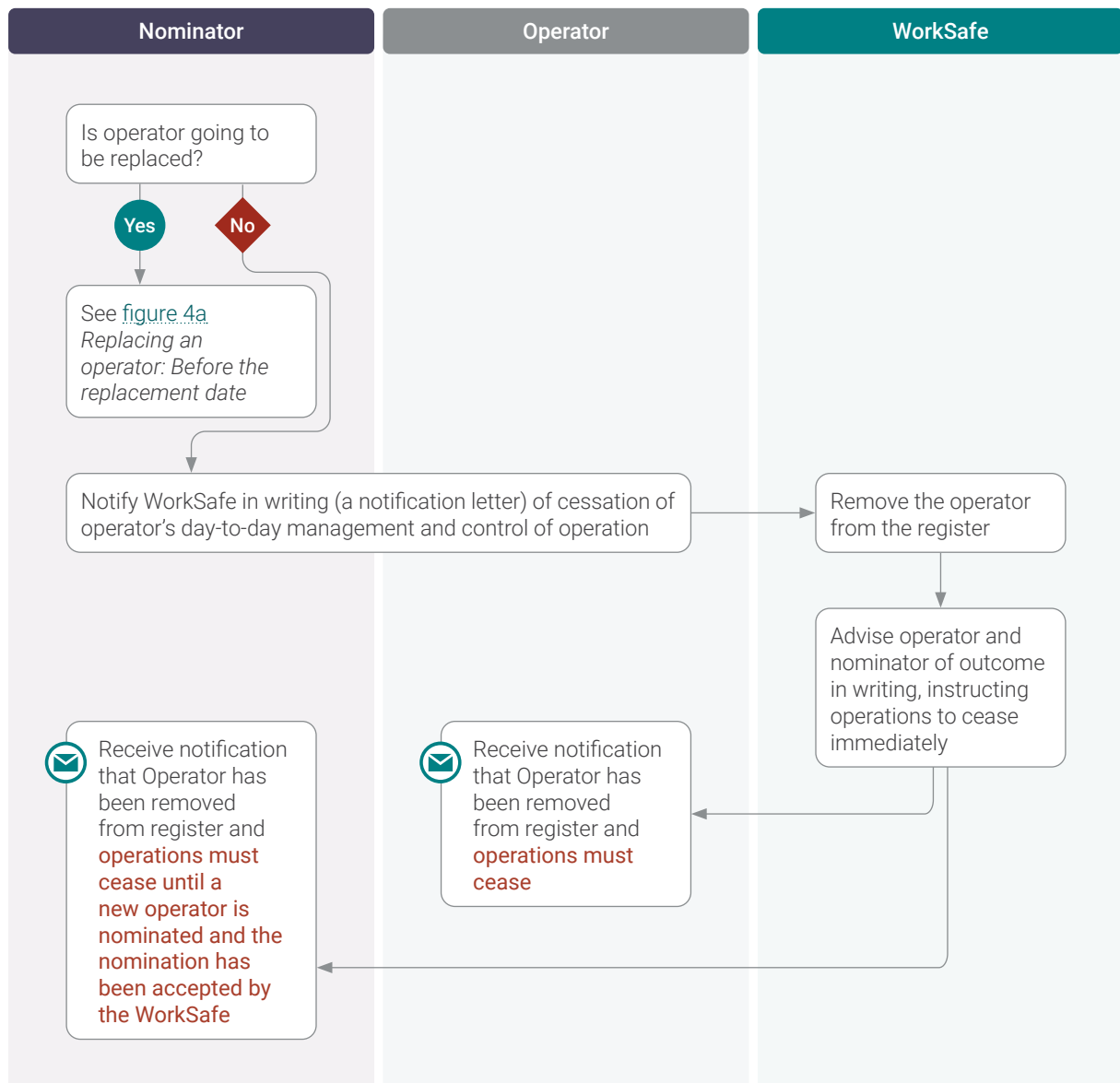


Figure 2 Registered operator ceases to have day-to-day management and control of operation

Removal of registered operator by WorkSafe

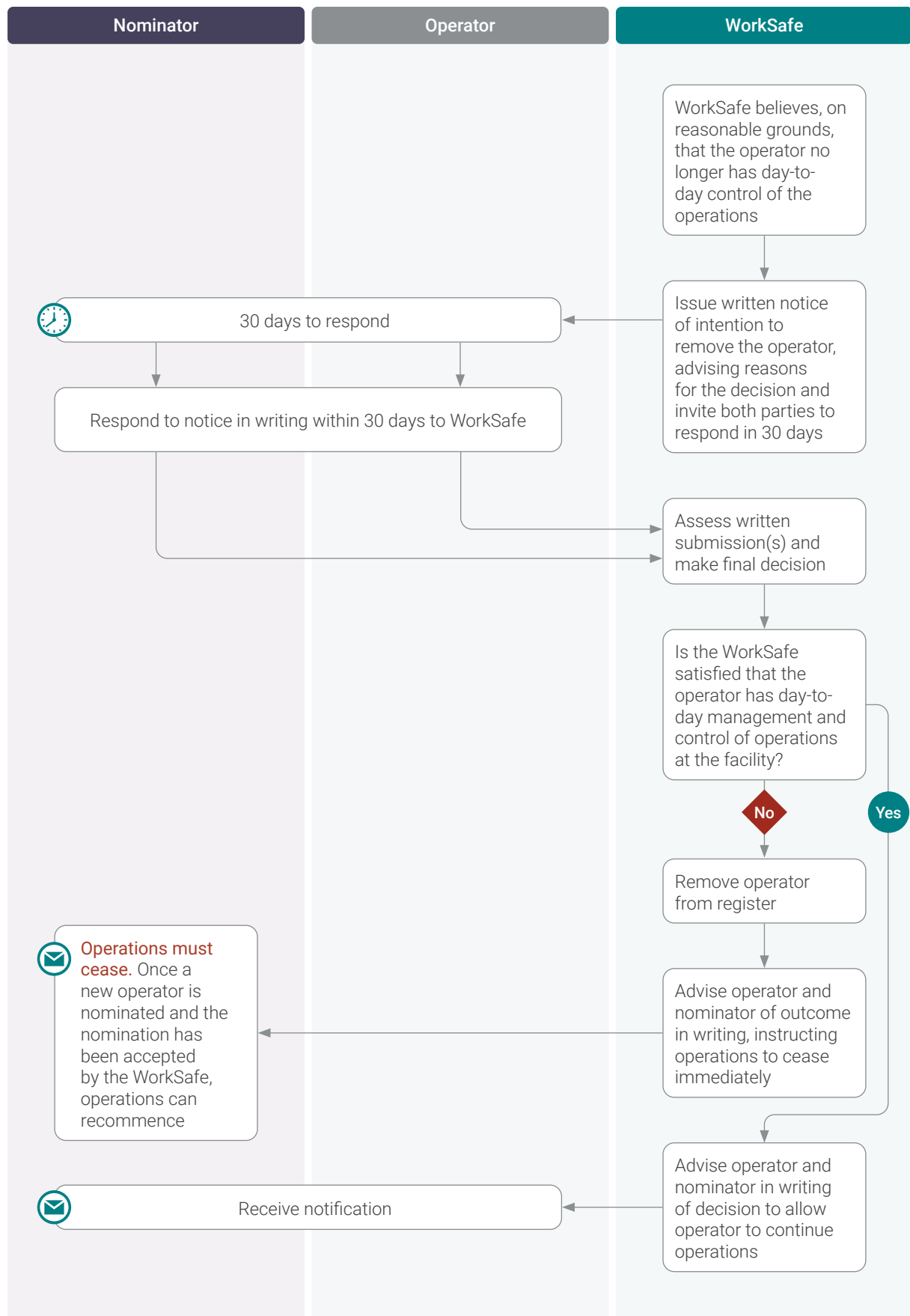


Figure 3 Removal of registered operator by the regulator

Replacing an operator: Before the replacement date

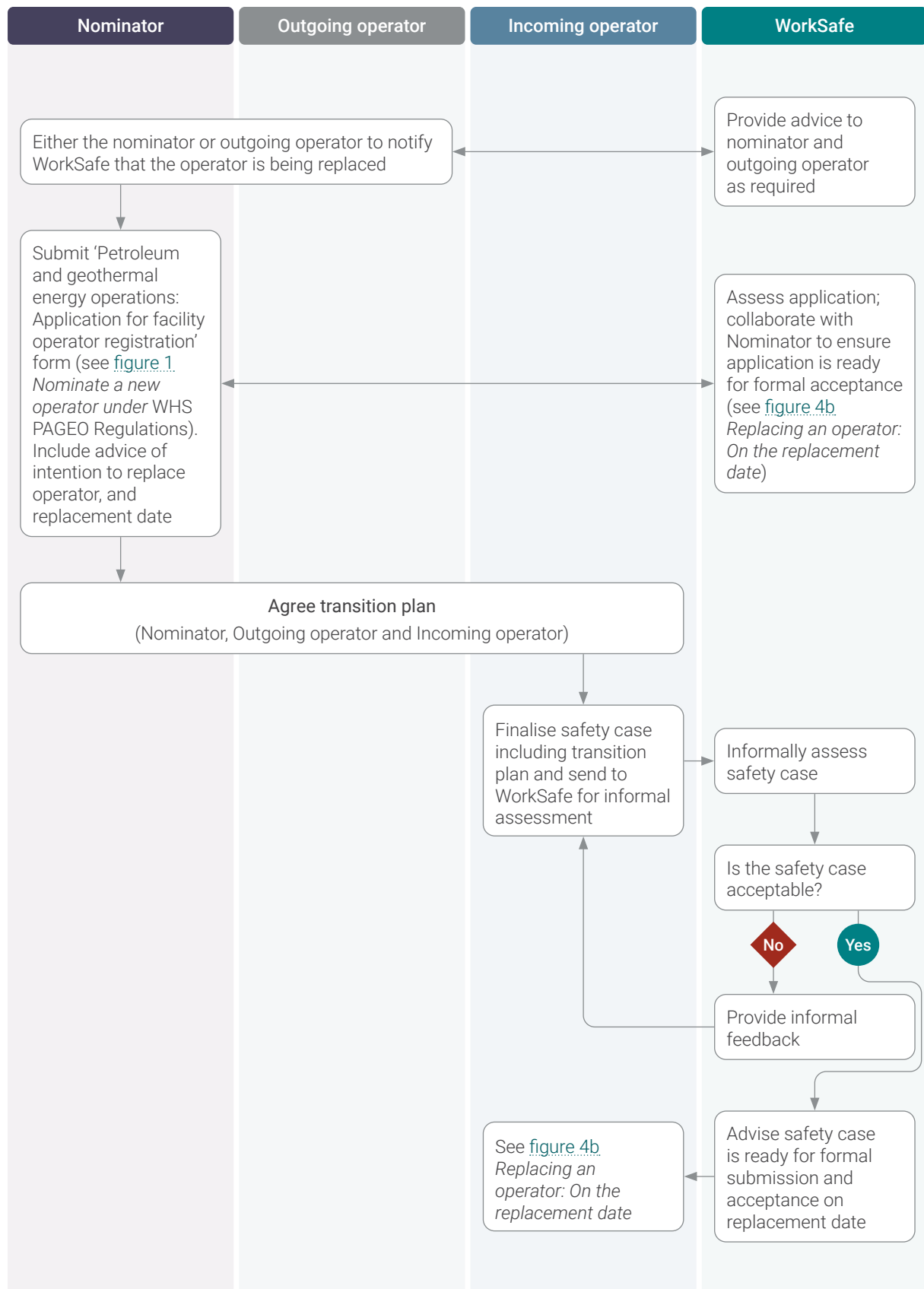


Figure 4a Replacing an operator: Before the replacement date

Replacing an operator: On the replacement date

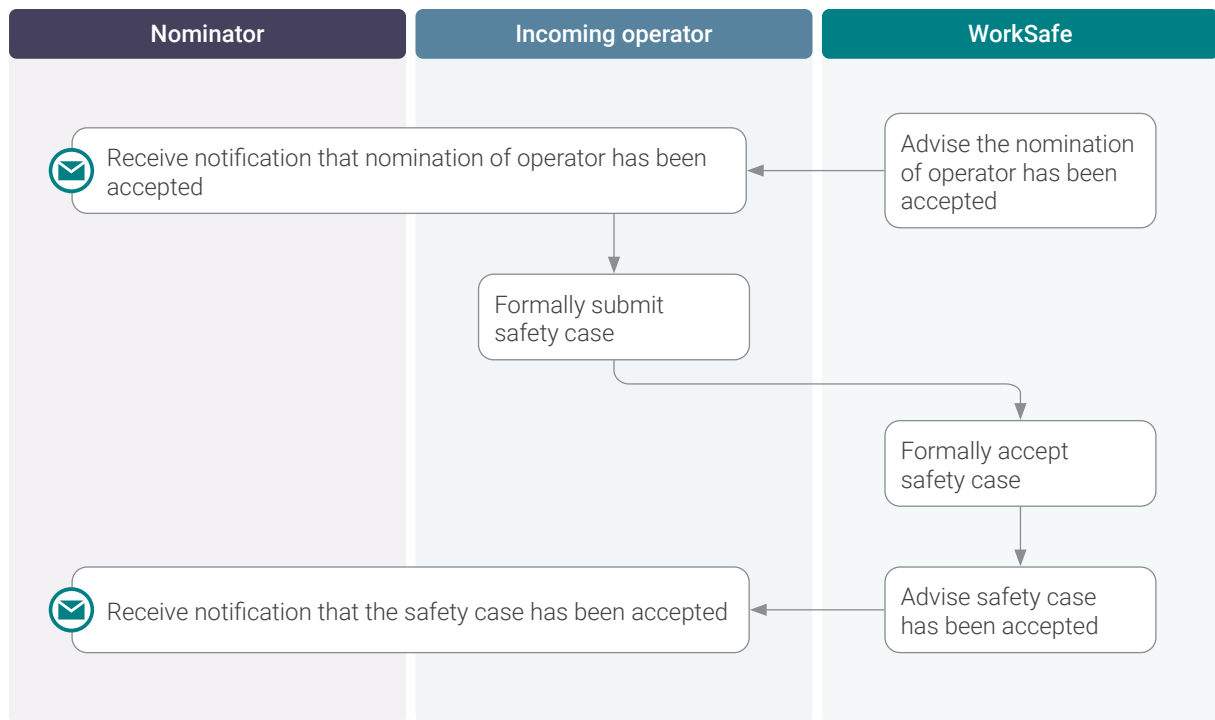


Figure 4b Replacing an operator: On the replacement date

Replacing a nominator and operator: Before the replacement date

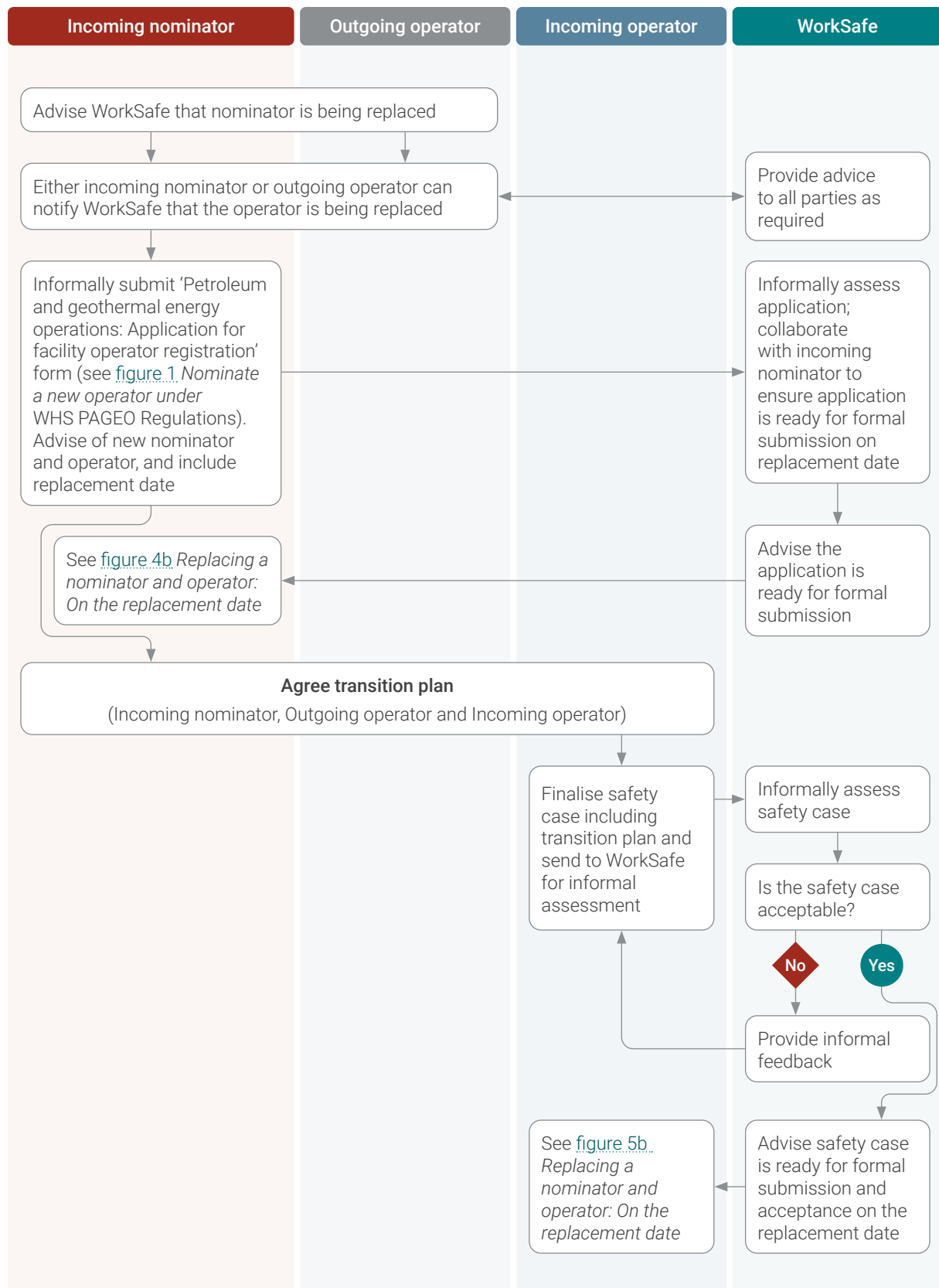


Figure 5a Replacing a nominator and operator: Before the replacement date

Replacing a nominator and operator: On the replacement date

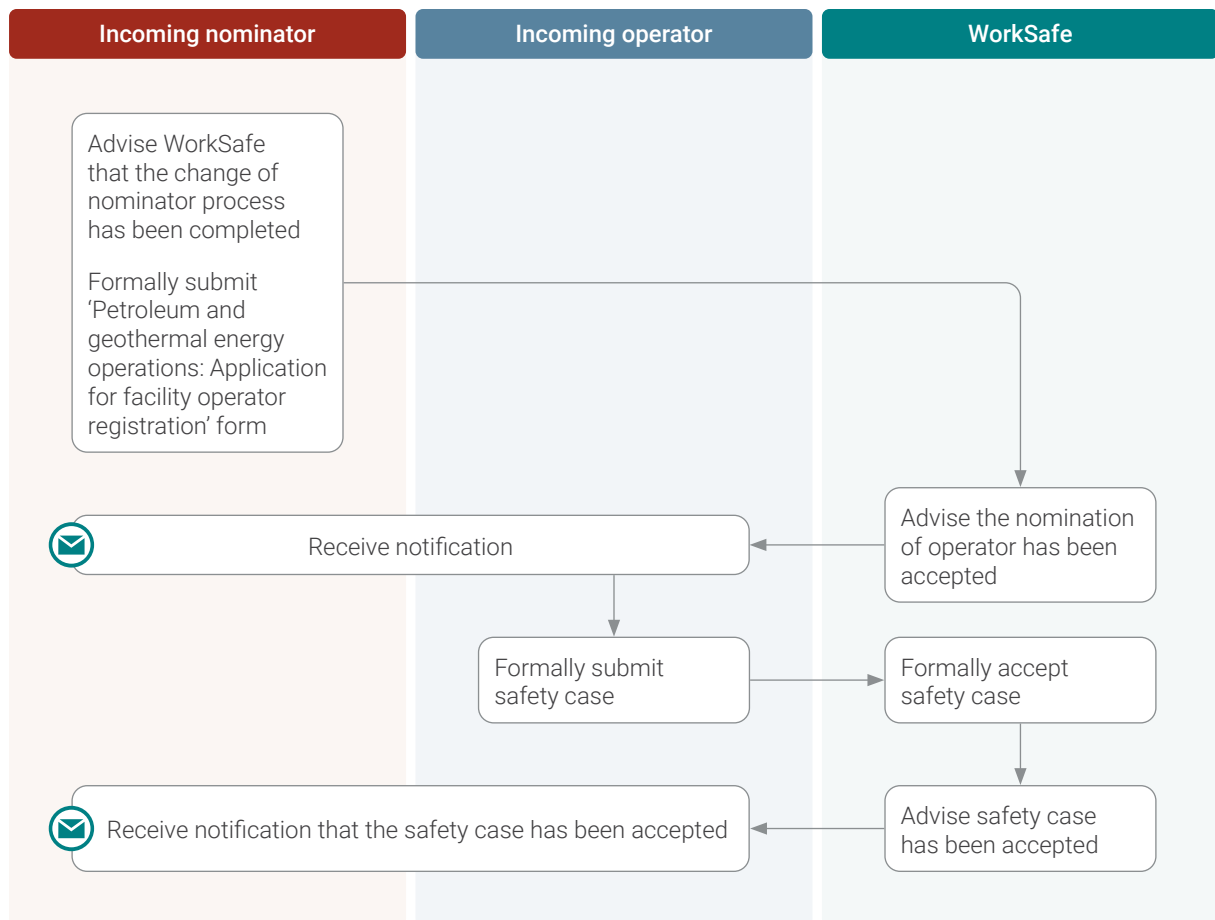


Figure 5b Replacing a nominator and operator: On the replacement date

Appendix 2 Glossary

Term	Definition
Facility	a) a geothermal energy facility; or b) a petroleum facility
Geothermal energy operation	A place at which geothermal energy operations are carried out, including any fixture, fitting, plant, or structure at the place
Incoming operator	A person who will be nominated to be the operator of the facility in replacement of current operator
LGIRS	Department of Local Government, Industry Regulation and Safety
Natural person	An individual (<i>Interpretation Act 1984</i>)
Nominator	A person who nominates another person to be the operator of a facility under regulation 21(2): (a) a person who is the owner, charterer, or lessee of a facility. (b) a person who holds a petroleum title or a geothermal energy title. (c) a person approved by the BI Act Minister under the Barrow Island Act 2003 section 13(1)
Nominee	A nominee is a person that may be nominated to be the operator of a facility by a nominator
NOPSEMA	National Offshore Petroleum Safety and Environmental Management Authority
Operator	Operator, in relation to a facility or proposed facility, means a person who is registered under regulation 22(3) as the operator of the facility or proposed facility
Person	Person or any word or expression descriptive of a person includes a public body, company, or association or body of persons, corporate or unincorporate (<i>Interpretation Act 1984</i>)
Petroleum facility	A place at which petroleum operations are carried out, including any fixture, fitting, plant, or structure at the place
Regulator	The WorkSafe Commissioner under the WHS Act
Replacement date	An agreed date between the operator and the person who will be nominated to be the operator of the facility (incoming operator to replace the operator of the facility)
Transition plan	An agreed handover plan between the operator and the person who will be nominated to be the operator of the facility (incoming operator) to ensure that the replacement of the operator does not increase any risk to the operation
WHS Act	<i>Work Health and Safety Act 2020</i>
WHS PAGEO Regulation	Work Health and Safety (Petroleum and Geothermal Energy Operations) Regulations 2022
WorkSafe PSDGD	WorkSafe Petroleum Safety and Dangerous Goods Directorate

Appendix 3 Additional information

Petroleum safety guidance

Interpretive guidelines

- [*Development and submission of a diving safety management system*](#)
- [*Development and submission of a safety case*](#)
- [*Development and submission of an onshore facility safety case – drilling operations*](#)

Guides

- [*Audits, review and continual improvement*](#)
- [*Bridging documents and simultaneous operations \(SIMOPS\)*](#)
- [*Dangerous goods and hazardous chemicals in petroleum, pipeline and geothermal energy operations*](#)
- [*Decommissioning and management of ageing assets*](#)
- [*Demonstration of risk reduction so far as is reasonably practicable \(SFAIRP\)*](#)
- [*Diving start-up notices*](#)
- [*Emergency response planning*](#)
- [*Facility design case*](#)
- [*Hazard identification*](#)
- [*Health and safety leading and lagging performance indicators*](#)
- [*Human factors fundamentals for petroleum and major hazard facility operators*](#)
- [*Human factors self-assessment guide and tool for safety management systems at petroleum and major hazard facility operations*](#)
- [*Identification of major accident events, control measures and performance standards*](#)
- [*Inspections – Land-based drilling rigs*](#)
- [*Involvement of workers*](#)
- [*Management of change*](#)
- [*Records management including document control*](#)
- [*Risk assessment and management including operational risk assessment*](#)
- [*Validation requirements*](#)

Other resources

WorkSafe Western Australia

- [*Discriminatory, coercive and misleading conduct – Interpretive guideline*](#)
- [*How to determine what is reasonably practicable to meet a health and safety duty: Interpretive guideline*](#)
- [*Incident notification: Interpretive guideline*](#)
- [*The health and safety duty of an officer: Interpretive guideline*](#)
- [*The meaning of ‘person conducting a business or undertaking’ \(PCBU\): Interpretive guideline*](#)

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