



Petroleum, geothermal energy and pipeline safety information sheet

Overview of amendments to the Western Australian petroleum legislation

Introduction

This information sheet overviews the effect of the 2010 proclamation of the *Petroleum Legislation Amendment and Repeal Act 2005* (PLARA), which amended the following Acts applying to onshore and offshore petroleum, pipeline and geothermal energy operations in Western Australia:

- *Petroleum and Geothermal Energy Resources Act 1967*;
- *Petroleum Pipelines Act 1969*; and
- *Petroleum (Submerged Lands) Act 1982*.

The PLARA introduced a substantive occupational safety and health (OSH) regime into each Act, which is supported by regulations covering OSH matters and management of safety. The implications for industry are summarised in separate information sheets.

The Petroleum Safety Branch of Resources Safety administers the safety and structural integrity provisions of the onshore pipeline, petroleum and geothermal legislation, and provides specialised safety and risk management advice to the Department of Mines and Petroleum as part of its approval processes. Functions include:

- Occupational safety and health regulatory services
- Safety case technical assessment, review and approval
- Safety management system assessment, review and approval
- Specialist advice, compliance auditing and investigations, and
- Promoting safety and health outcomes, including education and information.

The table below summarises how the Parts of the PLARA apply once proclaimed. Significant OSH features applicable to onshore operations are then described.

Application of PLARA to OSH matters

PLARA	Relevant Act	Effect of amendments
Part 4	<i>Petroleum (Submerged Lands) Act 1982</i>	Introduced the National Offshore Petroleum Safety Authority as the safety authority for offshore operations. This Part was proclaimed in March 2007.
Parts 2 and 3	<i>Petroleum Pipelines Act 1969</i> and <i>Petroleum and Geothermal Energy Resources Act 1967</i>	Introduces a substantive OSH regime through amendments to existing provisions as well as the insertion of new provisions and a new Schedule. Regulations dealing with the management of safety and OSH have been introduced to take into account the amendments that attach to these Acts. The Resources Safety Division of the Department of Mines and Petroleum will be the safety authority for these Acts. These Parts were proclaimed in the first half of 2010 at the same time.
All	<i>Petroleum Pipelines Act 1969</i> ; <i>Petroleum and Geothermal Energy Resources Act 1967</i> ; and <i>Petroleum (Submerged Lands) Act 1982</i> .	Introduces the new terms “petroleum operation”, “geothermal energy operation” and “pipeline operation”, which cover a much broader scope of activities and workplaces than the previous terms used to cover these activities (“well” and “pipeline”).

OSH schedule – Schedule 1

Before the relevant Parts of PLARA came into effect, OSH was regulated through ministerial directions that attached an OSH schedule to licences for operators to comply with.

Amendments have been made to the main body of each of the Acts through the inclusion of a new Part as well as the inclusion of a specific OSH schedule, Schedule 1. The object of the Schedule is to:

- secure the occupational safety and health of persons engaged in those operations;
- protect persons in the vicinity of those operations at the invitation of, or with the express or implied consent of, the operators of, or persons in control of a part of, those operations from risks to safety and health arising out of those operations;
- ensure that expert advice is available on occupational safety and health matters in relation to those operations;
- promote an occupational environment for members of the workforce engaged in those operations that is adapted to their needs relating to safety and health; and
- foster a consultative relationship between all relevant persons concerning the safety and health of members of the workforce engaged in those operations.

OSH duties

As with the OSH duties previously in force via ministerial directions, the OSH duties under Schedule 1 apply to all persons engaged in an operation. Apart from operators, employers and other persons engaged in an operation, this may also include manufacturers of plant or a substance to be used in an operation, a supplier of a facility or plant for use in an operation, as well as a person who erects or installs a facility or plant for use in a petroleum operation.

Inspectors' powers

Inspectors have wide-reaching powers to investigate whether a "listed OSH law" is being contravened or may be contravened under the amended legislation.

For the purposes of an investigation, an inspector may enter the place at which an operation is carried on and to which the inspection relates and do all or any of the following:

- search the place;
- inspect, examine, take measurements of, or conduct tests concerning, any workplace, facility, plant, substance or thing at the place (this may include taking possession);
- take photographs of, make video recordings of, or make sketches of, any workplace, facility, plant, substance or thing at the place;
- inspect, take extracts from, or make copies of, any documents at the place that the inspector has reasonable grounds to believe relate, or are likely to relate, to the subject matter of the inspection; and
- inspect the subsoil in the vicinity of the place to which the inspection relates.

An inspector also has powers in relation to an inspection at any regulated business premises (other than a place at which an operation is carried on) and any premises (other than regulated business premises).

In addition to the powers above, an inspector has the power to:

- require assistance, information, the answering of questions, and production of documents or articles;
- direct that a workplace not be disturbed; and
- issue prohibition and improvement notices.

Safety and health representatives

Schedule 1 introduces provisions for the election terms and powers and functions of safety and health representatives (SHRs), who may exercise certain powers for the purpose of promoting and ensuring OSH in the workplace, included issuing provisional improvement notices.

Workforce representatives

The amendments provide for a “workforce representative” for either a person or work group.

- In relation to a person who is a member of the workforce engaged in a petroleum, geothermal or pipeline operation, this may be a registered organisation of which that person is a member, if the person is qualified to be a member of that organisation because of the work the person performs in relation to the petroleum, geothermal or pipeline operation.
- In relation to a designated work group or a proposed designated work group, this may be a registered organisation of which a person who is, or who is likely to be, in the work group is a member, if the person is qualified to be a member of that organisation because of the work the person performs, or will perform, in relation to the petroleum, geothermal or pipeline operation as a member of the group.

Safety and health committees

A safety and health committee must be established to assist in OSH matters in the event that:

- the number of members of the workforce engaged in a petroleum, geothermal or pipeline operation exceeds 50;
- the members of the workforce are included in one or more designated work groups; and
- the operator is requested to establish the committee by the SHR for a designated work group or for one of the designated work groups.

Designated work groups

The amendments also provide for the establishment of designated work groups for an operation to best enable OSH interests and issues to be represented and safeguarded.

Reviews and appeals

A subdivision in Schedule 1 deals with the review of an inspector's decisions. The subdivision sets out the circumstances where a person may have a right to a review of an inspector's decision. A person may apply in writing to the “reviewing authority” for a review of the decision. The reviewing authority will give notice in writing of the decision on the reference and provide the person with reasons for the decision.

If a person is not satisfied with the decision made by the “reviewing authority”, he or she may refer the decision to the Tribunal for further review. The Tribunal will inquire into the circumstances relating to the decision and may make further decisions. It will give notice in writing of the decision on the reference and provide the person with reasons for the decision.

Notifying and reporting accidents and dangerous occurrences

The amendments also provide for the notification and reporting of accidents and dangerous occurrences. An operator is required to give notice to the Minister and provide a report in the event of an accident or a dangerous occurrence.

The regulations prescribe what occurrences would be considered to be dangerous occurrences for the purposes of the definition of “dangerous occurrence” in Schedule 1.