



Government of **Western Australia**
Department of **Mines, Industry Regulation and Safety**

Submission templates - Work Health and Safety Regulations for Western Australia

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WHS Regulations submission coversheet

Section 1: Submission details

| | | | |
|--|---|---|---------------------------------------|
| Full name | Jason Medd | | |
| Organisation and position (if applicable) | Australian Petroleum Production and Exploration Association | | |
| Email | [REDACTED] | | |
| Telephone | [REDACTED] | | |
| Employment status (if applicable) | <input type="checkbox"/> Worker <input type="checkbox"/> Employer <input type="checkbox"/> Self-employed <input type="checkbox"/> Other (enter details) | <input type="checkbox"/> Principal contractor <input type="checkbox"/> Contractor <input type="checkbox"/> OSH professional | |
| Size of workplace | <input type="checkbox"/> Small (0-9) | <input checked="" type="checkbox"/> Medium (20-199) | <input type="checkbox"/> Large (200+) |
| Please indicate in what capacity you are making this submission (select one of the following categories) | <input type="checkbox"/> Individual <input type="checkbox"/> Business <input type="checkbox"/> Community organisation <input type="checkbox"/> Employer organisation <input type="checkbox"/> Other (enter details) | <input checked="" type="checkbox"/> Industry representative <input type="checkbox"/> Academic <input type="checkbox"/> Government representative <input type="checkbox"/> Professional | |
| Which industry sector do you operate in? | Upstream petroleum | | |
| Your type of job or business (if applicable) | Policy advocacy | | |

Section 1: Permission details

Internet publication

Public submissions may be published in full on the website, including any personal information of authors and/or other third parties **contained in the submission**.

Please tick this box if you wish for your input to remain confidential (that is, you **do not consent** to having your input published on the internet)

Anonymity

Please tick this box if you wish for your input to be treated as anonymous (that is, you **do not consent** to having your name, or the name of your organisation, published on the internet with your input)

Third party personal information

Please tick this box **if your input contains personal information of third party individuals**, and strike out the statement that is not applicable in the following sentence:

The third party **consents / does not consent** to the publication of their information.

WHS Regulations submission comments

Enter your comments on specific regulations in the table below. You may add new rows at the end of the table if you wish to include comments on other aspects of the national model WHS regulations.

When making your submission, please consider providing specific responses to the following issue:

1. What is the benefit to workplace participants of a proposal?
2. What is the likely cost for you, your business and the Regulator to implement a specific proposal?
3. Is a specific recommendation likely to be effective in achieving healthier and safer workplaces?
4. Are there any unintended consequences of adopting individual regulations in the model WHS regulations?
5. If a new requirement is proposed by the model WHS regulations, what are the costs and benefits?

This template can be used for providing your views concerning:

- National Model Work Health and Safety Regulations
- Demolition licensing under the OSH regulations
- Commercial driver fatigue under the OSH regulations
- Protection from tobacco smoke under the OSH regulations
- Proposed deletions in Western Australia to remove overlap with the *Dangerous Goods Safety Act 2004*

Section 2: Feedback

Track-changed document submission

- Which consultation document(s) are you providing feedback on?
- Differences between the national model WHS regulations and the OSH regulations 1996
 - Consultation document WHS (Mines) Regulations for WA
 - Consultation document WHS (Petroleum and Geothermal Energy Operations) Regulations for WA
 - Proposed deletions in WA to remove overlap with the Dangerous Goods Safety Act 2004*
 - Commercial vehicle drivers: Hours of work – Work Health and Safety Regulations for WA
 - Protection from tobacco smoke – Work Health and Safety Regulations for WA
 - Demolition work: Licence – Work Health and Safety Regulations for WA

Number of pages in
your submission

Does this submission contain a **track-changed version** of the
draft proposal?

Yes

No

If yes, submit as a Microsoft Word compatible document (.docx)*

General comments

- The Australian Petroleum Production and Exploration Association (APPEA) welcomes the Western Australian's Government's proposal to develop a streamlined single set of Work Health and Safety (Petroleum and Geothermal Energy Operations) Regulations, to replace the existing eight sets of regulations under the primary petroleum and pipeline acts.
- The Government, and specifically the Critical Risk team at the Department of Mines, Industry Regulation and Safety, should be commended for their open and transparent approach to industry consultation. I would also like to acknowledge the sustained efforts of both the Chamber of Minerals and Energy and the Chamber of Commerce and Industry in respect to WHS regulatory reform.
- APPEA is committed to ensuring the regulatory framework for petroleum and geothermal operations, in Western Australia, continues to secure the occupational health and safety of our workforce; and reflects leading practice

Detailed comments

If commenting on specific content, you may wish to use the table below.

| Reference to specific model WHS / OSH reg no. | Comment |
|--|--|
| Principle / proposal within consultation paper: | Our comments relate to the following consultation paper: WHS (Petroleum and Geothermal Energy Operations) Regulations for WA. |
| Damage to SCE | Policymakers /regulators and industry should work together to establish clear defined terms, especially a common understanding of what does or doesn't constitute damage to safety critical equipment. |
| Design case | <p>APPEA is supportive of an early engagement document during front end engineering and design (FEED).</p> <p>APPEA notes that there is some debate on whether such a document should be voluntary or mandatory and whether there is an associated acceptance or approval from regulators.</p> <p>Notwithstanding above, APPEA considers that such a document could set policy and direction including: design intent, objectives, engineering processes and design life (while protecting commercial proprietary information that would otherwise not be released under the statute or freedom of information).</p> <p>Titleholders could be encouraged to undertake early engagement with regulators and key stakeholders they identify, as a non-prescriptive condition on their respective retention lease.</p> <p>Early engagement during the retention lease phase could be considered to reflect 'proper and workmanlike manner and be in accordance with good oilfield practice'.</p> <p>APPEA notes that the proposed target of 90 days aligns with field development plan approvals.</p> |
| Safety case transparency | <p>APPEA supports the workforce having the option to inspect a safety case or any other safety documentation; however, external circulation may breach statutory non-disclosure provisions.</p> <p>Broad transparency agendas, for safety cases, may have security implications. Other than workforce, for an approved safety case, freedom of information exemptions / statutory protections for information should be considered against broader government transparency agendas, including safety case / design case.</p> |
| Duties to the public | Supported with qualification that provisions are cast 'as low as practicable / reasonable satisfaction of Chief Inspector Petroleum Safety (CIPS). |
| Duties in relation to accommodation premises (within title area) | Duties for owners / managers of accommodation premises (on title) – must be cast to 'as low as reasonably practicable'. |

25 November 2019

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Public comment

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WHS Reform,
Department of Mines, Industry Regulation and Safety
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Sent by email: WHSreform@dmirs.wa.gov.au

Dear Sir / Madam

PROPOSAL FOR WORK HEALTH AND SAFETY (PETROLEUM AND GEOTHERMAL ENERGY OPERATIONS) REGULATIONS FOR WESTERN AUSTRALIA

I am pleased to provide comments regarding the regulations that will support the proposed *Work Health and Safety Act* for Western Australia; and have taken the opportunity to attach our feedback.

I note that the Commonwealth Government is also currently reviewing safety provisions under the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* and supporting safety regulations.


The Australian Petroleum Production and Exploration Association (APPEA) welcomes the Western Australian's Government's proposal to develop a streamlined single set of Work Health and Safety (Petroleum and Geothermal Energy Operations) Regulations, to replace the existing eight sets of regulations under the primary petroleum and pipeline acts.

The Government, and specifically the Critical Risk team at the Department of Mines, Industry Regulation and Safety, should be commended for their open and transparent approach to industry consultation. I would also like to acknowledge the sustained efforts of both the Chamber of Minerals and Energy and the Chamber of Commerce and Industry in respect to WHS regulatory reform.

APPEA is committed to ensuring the regulatory framework for petroleum and geothermal operations, in Western Australia, continues to secure the occupational health and safety of our workforce; and reflects leading practice.

Should you have any queries regarding our submission please contact me directly on [REDACTED]
or at [REDACTED]

Yours sincerely



Jason Medd
Director – Environment, Health and Safety
APPEA

Attachment – APPEA comments against key principles raised in the public consultation package.

Proposal for work health and safety (petroleum and geothermal energy operations) regulations for Western Australia¹

| Principle / proposal | APPEA comment | Request for further information |
|--|--|--|
| Appropriate performance standards must be defined for the operation of the safety-critical aspects of the petroleum or geothermal energy operation | Supported. Policymakers /regulators and industry should work together to establish clear defined terms, especially a common understanding of what does or doesn't constitute damage to safety critical equipment. | |
| <p>An optional Design Case as an early engagement tool will be introduced.</p> <p>If the operator chooses to, the submission of a Design Case would occur at the Front End Engineering Design stage. The Design Case summarises the design intent, safety and reliability objectives, engineering processes and design life of the planned facility.</p> | <p>APPEA is supportive of an early engagement document during front end engineering and design (FEED).</p> <p>APPEA notes that there is some debate on whether such a document should be voluntary or mandatory and whether there is an associated acceptance or approval from regulators.</p> <p>Notwithstanding above, APPEA considers that such a document could set policy and direction including: design intent, objectives, engineering processes and design life (while protecting commercial proprietary information that would otherwise not be released under the statute or freedom of information).</p> | <p>APPEA would like further clarity on:</p> <ul style="list-style-type: none"> • Cost recovery implications (transactional in nature?) for design case review for proposed facilities? and • Behavioral incentives to socialise design case. |

¹ https://www.commerce.wa.gov.au/sites/default/files/atoms/files/002237.safety.comms_0.docx

| | | |
|---|--|--|
| | <p>Titleholders could be encouraged to undertake early engagement with regulators and key stakeholders they identify, as a non-prescriptive condition on their respective retention lease.</p> <p>Early engagement during the retention lease phase could be considered to reflect 'proper and workmanlike manner and be in accordance with good oilfield practice'.</p> <p>APPEA notes that the proposed target of 90 days aligns with field development plan approvals.</p> | |
| Safety case (and design case) transparency requests | <p>APPEA supports the workforce having the option to inspect a safety case or any other safety documentation; however, external circulation may breach statutory non-disclosure provisions.</p> <p>Broad transparency agendas, for safety cases, may have security implications. Other than workforce, for an approved safety case, freedom of information exemptions / statutory protections for information should be considered against broader government transparency agendas, including safety case / design case.</p> | |
| Retention lease work programs / permissioning documents (including a design case) | <p>Government (e.g. Joint Authority, DJTSI and DMIRS) should seek to strike the right balance towards a final investment decision, noting options evaluation requires comprehensive review of: safety, technical, environmental and local content feasibility, based on different development concepts).</p> | |
| Registration of operator / refusal of de-registration | <p>APPEA understands this proposal is consistent with the Commonwealth.</p> | |
| Duties to the public | <p>Supported with qualification that provisions are cast 'as low as practicable / reasonable satisfaction of Chief Inspector Petroleum Safety (CIPS).</p> | |

| | | |
|--|--|---|
| Duties in relation to accommodation premises (within title area) | <p>APPEA notes the definition of accommodation premises under the WHS Mines Regulations.²</p> <p>The WA Government’s code of practice mentally healthy workplaces for fly-in fly-out (FIFO) workers in the resources and construction sectors (2019)³, includes strategies and control measures that may assist in developing and maintaining mentally healthy workplaces.⁴</p> | Duties for owners / managers of accommodation premises (on title) – must be cast to ‘as low as reasonably practicable’. |
| At or near (a facility) | APPEA understands the required discretion needed, in an objective based regime, with reference to a facility. | |

² **accommodation premises** —

- (a) means residential premises —
 - (i) the occupation of which is necessary for the purposes of workers’ engagement at a mine because other accommodation for the workers is not reasonably available; and
 - (ii) that are not situated within a townsite as defined in the Land Administration Act 1997 section 26(1) or the metropolitan region as defined in the Planning and Development Act 2005 section 4(1); and
 - (iii) that are situated on a mining tenement as defined in the Mining Act 1978 section 8(1); and
- (b) includes land, buildings and recreational facilities used in connection with the occupation of those premises;

https://www.commerce.wa.gov.au/sites/default/files/atoms/files/002096.safety.comms_0.docx

³ http://www.dmp.wa.gov.au/Documents/Safety/MSH_MHW_FIFO_COP.pdf

⁴ Table 4.1 of the Code – presents psychosocial hazards and risk factors, such as fatigue; and lifestyle factors such as nutrition and physical activity. Section 5.4 of the Code provides - The type, design and quality of accommodation and activities available may be used to support strategies for mentally healthy workplaces by providing controls to reduce the risks of harm associated with psychosocial hazards and risk factors such as:

- stress
- fatigue
- loneliness.

Attachment – APPEA’s view on the relevant parts of the model WHS regulations

Scope

APPEA understands the activities excluded do not present direct hydrocarbon hazards.

‘Other than the Parts listed below, it is proposed that the remainder of the WHS Regulations will be disapplied from Petroleum and Geothermal Energy Operations...

To avoid unnecessary duplication, it is anticipated that the following Parts of the WHS Regulations will apply to Petroleum Operations:

- Chapter 2 Representation and Participation – Parts 2.1, 2.2, 2.3, 2.4, which provide for workplace consultation, Health and Safety Representatives, and Safety Committees
- Chapter 3 General Risk and Workplace Management – Part 3.1
- Chapter 11 Miscellaneous – Part 11.3, which provides for the clarification of miscellaneous matters.
- Schedule 10 Prohibited carcinogens, restricted carcinogens and restricted hazardous chemicals. This Schedule will replace the provisions in the current three sets of Occupational Safety and Health Regulations related to petroleum and geothermal energy operations, which are linked to Codes of Practice by the National Occupational Health and Safety Commission.’

APPEA comments

Chapter 2 – training for health and safety representatives

Wording of ‘up to five days’ – is important for managing expectation around training delivery. Industry led training and competency initiatives such as CSTP (five-day course is being phased out) and will be replaced by ISI.

APPEA experience from HSR Forum is that there is value in providing appropriate opportunities for HSRs to network; not just undertake training or refresher training.

Part 3.1 – Managing risks to health and safety

A duty holder, in managing risks to health and safety, must identify reasonably foreseeable hazards that could give rise to risks to health and safety. Important that duty in respect to psychological / psychosocial hazards/ risks are reasonably foreseeable.

APPEA's view on the relevant parts of the model WHS regulations

Chapter 2 – training for health and safety representatives

Wording of 'up to five days' – is important for managing expectation around training delivery. Industry led training and competency initiatives such as CSTP (five-day course is being phased out) and will be replaced by ISI.

APPEA's observation from the recent PetroleumHSR Forum is that there is value in providing appropriate opportunities for HSRs to network; not just undertake training or refresher training.

Part 3.1 – Managing risks to health and safety

A duty holder, in managing risks to health and safety, must identify reasonably foreseeable hazards that could give rise to risks to health and safety. Important that duty in respect to psychological / psychosocial hazards/ risks are reasonably foreseeable.