

Guide

Quick guide for petroleum site holders and petroleum site operators

WHS (Mines and Petroleum Sites) Legislation

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This publication provides a general summary of some of the provisions under the *Work Health and Safety Act 2011*, *Work Health and Safety Regulation 2011*, *Work Health and Safety (Mines and Petroleum Sites) Act 2013* and *Work Health and Safety (Mines and Petroleum Sites) Regulation 2014* (WHS laws) as interpreted by the Department of Industry, Skills and Regional Development at the time of writing (February 2016). Compliance with the WHS laws is a legal requirement. This publication does not provide or purport to provide legal advice. Users are reminded of the need to ensure that the information upon which they rely is up to date by checking the currency of the information at the Department of Industry, Skills and Regional Development website or with the user's independent legal advisor.

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Overview

The *Work Health and Safety (Mines and Petroleum Sites) Act 2013* (the WHS (Mines and Petroleum Sites) Act) and the *Work Health and Safety (Mines and Petroleum Sites) Regulation 2014* (the WHS (Mines and Petroleum Sites) Regulation) applies to petroleum sites as at 1 February 2016.

These laws, together with the *Work Health and Safety Act 2011* (WHS Act) and the *Work Health and Safety Regulation 2011* (WHS Regulation), regulate health and safety at workplaces where petroleum operations are carried out in NSW.

Collectively, these laws are referred to as work health and safety laws, abbreviated to WHS laws. For the purposes of this guide, the petroleum and mining-specific laws are abbreviated as the WHS (Mines and Petroleum Sites) laws.

The new WHS (Mines and Petroleum Sites) laws replace the operation of the *Schedule of Onshore Petroleum Exploration and Production Safety Requirements* (the PO Schedule) under the *Petroleum (Onshore) Act 1991*. The PO Schedule had been the primary means to address the specific work, health and safety elements associated with petroleum operations. The WHS (Mines and Petroleum Sites) laws provide for:

- a consistent and robust single WHS regulatory framework that applies to onshore petroleum sites
- specific risks associated with petroleum activities to be appropriately addressed through a modern WHS framework, consistent with the minerals sector
- proactive regulatory oversight of industry's management of the risks associated with a petroleum operation.

The new WHS (Mines and Petroleum Site) laws align with and build on the WHS Act and the WHS Regulation. Risks associated with both mining and petroleum operations can be managed in the same way, with specific provisions included to address the particular risks associated with either mining or petroleum operations, if necessary.

This makes it easier for businesses to use consistent approaches across mining, petroleum and non-resources operations. In addition, the modernisation of the petroleum-specific work, health and safety elements increases harmonisation between different states and territories of Australia.

Transitional arrangements give duty holders time to understand and make any changes needed to comply with their obligations. The transitional arrangements may permit a petroleum site operator to comply with specified provisions of the PO Schedule, instead of the new requirements, during the transitional period.

Key transitional arrangements are based on the following principles:

- All existing petroleum site operators will have 12 months to transition to the requirements of the new WHS (Mines and Petroleum Site) laws where they contain provisions that significantly depart from the requirements of the former PO Schedule (for example, principal hazard management plans, principal control plans, survey plans and statutory functions).
- During the transition period, certain provisions of the PO Schedule will continue to apply on a transitional basis.

- Generally there are no transitional arrangements where the provisions of the new WHS (Mines and Petroleum Site) laws are effectively the same as the former PO Schedule (for example, specific high risk activities).
- New petroleum operations which commence after commencement of the new WHS (Mines and Petroleum Sites) laws will be required to comply with most of the new provisions (for example, safety management systems). There are some exceptions where it has been recognised that even for new petroleum operations it is appropriate to have a transitional period before the new requirements apply (for example, statutory functions at petroleum sites).

Regulator's transitional approach

Mine Safety staff, including inspectors and mine safety officers, will support industry in understanding and complying with the new laws.

The fundamentals of petroleum safety have not changed and duty holders who are complying with the WHS Act and WHS Regulation as well as specific provisions imposed under the *Petroleum (Onshore) Act 1991* should be well on the way to complying with the new requirements.

However, providing assistance to duty holders does not mean that action can't be taken against duty holders who are not keeping their workers safe.

Key concepts

The concept of *the regulator* is central to the WHS (Mines and Petroleum Sites) laws scheme. The regulator is the Secretary of the Department of Industry, Skills and Regional Development. The Secretary may delegate specific functions to various members of staff within the department. Appointed officials will carry out the compliance functions under the WHS laws in respect of petroleum workplaces.

Duty holders under the WHS (Mines and Petroleum Sites) laws are aligned with the broader duties framework in the WHS Act framework. Duties are more appropriately placed on those persons who are in a position to affect WHS outcomes. This means most duties are placed on the petroleum site operator, instead of the petroleum site holder.

The WHS (Mines and Petroleum Sites) Act applies to all workplaces that are petroleum sites. A *petroleum site* is a workplace at which petroleum operations are carried out and includes any fixtures, fittings, plant or structures at the workplace that are used or were formerly used for petroleum operations. *Petroleum operations* are made up of two types of pursuits.

Firstly *petroleum activities*, which are activities carried out for the purpose of:

- extracting petroleum from the ground, or
- injecting petroleum into the ground, but only where the primary purpose of the injection is to inject petroleum into the ground or to return petroleum to the ground, or
- exploring for petroleum.

Secondly there are *activities carried out in connection with petroleum activities* provided they are carried out at a site where petroleum activities are carried out or in the vicinity of such a site, including at an adjoining location. Petroleum operations includes such things as constructing a site, preparing or processing extracted materials, handling or storing extracted materials. It also

includes activities associated with decommissioning, making safe or closing a petroleum extraction site or petroleum exploration site.

The regulations may declare an activity not to be petroleum operations, or may create exceptions.

There are also exemptions from compliance with certain provisions of the WHS (Mines and Petroleum Sites) Regulation for petroleum sites where only non-mechanical exploration occurs. This includes the following activities:

- geological mapping
- sampling and coring using hand-held equipment
- geophysical surveying (but not seismic surveying) and borehole logging
- access by vehicle (but not if access requires the construction of an access way such as a track or road)
- shallow reconnaissance drilling involving no more than minimal site preparation
- minor excavations (but not costeaning or bulk sampling).

Summary of key obligations under the WHS (Mines and Petroleum Sites) Regulation

NOTE: These are in addition to and build upon obligations under the WHS Act and Regulation including the primary duty of care.

Topic	Key obligations
Managing risk (clause 9)	<p>The WHS (Mines and Petroleum Sites) Regulation builds on the risk management requirements of the WHS Regulation adding specific requirements for risk assessment by competent people.</p> <p>The <i>Managing risk in petroleum operations</i> guide has been prepared to assist persons conducting a business or undertaking (PCBUs) at a petroleum site to understand what is required.</p>
Safety Management System	<p>Under the WHS (Mines and Petroleum Sites) laws, petroleum site operators must develop and implement a <i>safety management system</i> as the primary means of ensuring, so far as reasonably practicable, the health and safety of workers at the petroleum site and that the health and safety of others is not put at risk from work carried out as part of petroleum operations.</p> <p>In most cases, the safety management system will include specific plans for hazards and risks at the petroleum site such as any <i>principal hazard management plans</i> and <i>principal controls plans</i> for matters such as emergencies, electricity, health, explosives, plant and other mechanical risks.</p>
Contractors and other persons conducting a business or undertaking	<p>The WHS (Mines and Petroleum Sites) Regulation builds on the consultation, cooperation and coordination requirements of the WHS Act and makes specific provision for the arrangements between petroleum site operators and other businesses or undertakings, including contractors.</p> <p>See <i>Contractors and other businesses at mines</i> guide, which also applies to petroleum sites.</p>
Principal control plans	<p>Principal control plans cover hazards and controls that exist across the petroleum operations for a particular matter, such as electricity. The prescribed principal control plans are</p>

	<ul style="list-style-type: none"> • Emergency plan • Health control plan • Mechanical engineering control plan • Electrical engineering control plan • Explosives control plan • Well integrity control plan <p>A principal control plan should be developed only if the hazards it would control are present at the petroleum site. Some principal control plans, such as a health control plan, emergency plan and well integrity control plan, will be required at all petroleum operations.</p>
Principal hazard management plans	<p>Principal hazard management plans are required to manage particular hazards that have the potential to result in multiple deaths in a single incident or in a series of recurring incidents. The following principal hazard management plans may be required for a petroleum operation.</p> <ul style="list-style-type: none"> • roads or other vehicle operating areas, • air quality or dust or other airborne contaminants, • fire or explosion, • a hazard identified by the petroleum site operator <p>See the Code of Practice: <i>Safety management systems in mines</i> in the first instance.</p>
Notification of petroleum site operator	<p>The petroleum site holder has the duty to notify the regulator as to who will operate the petroleum operation. If the petroleum site holder appoints another entity as the petroleum site operator, the appointment must accompany the notification form.</p> <p>The petroleum site holder may only appoint a person to be the petroleum site operator if they have the necessary skills, knowledge, resources, etc to operate the mine.</p>
Notification of reportable events	<p>The petroleum site operator must notify the regulator of the following:</p> <ul style="list-style-type: none"> • commencement of petroleum operations at the petroleum site • the connection of an electricity supply to the petroleum site.
Notification of proposed high risk activities	<p>The petroleum site operator must give the regulator advance notice of certain activities. For petroleum operations these are:</p> <ul style="list-style-type: none"> • Electrical work on energised electrical equipment (but not if the electrical work is testing whether or not the equipment is energised) • Well workover • Decommissioning a well • Suspending a well. <p>Approvals are no longer required for these activities but arrangements are in place to transition applications made and approvals granted under the PO Schedule prior 1 February 2016.</p> <p>Guidance material is included in the notification form. For more information see <i>Notifying the Regulator of high risk activities: Form</i></p>
Notification of incident	<p>Incidents must be notified to the regulator. This includes notifiable incidents prescribed under the WHS (Mines and Petroleum Sites) Act as well as</p>

and injury	<p>some 'near miss' type incidents called <i>high potential incidents</i>.</p> <p>Note as a consequence, the provisions for notifiable incidents under the WHS Act will no longer apply to petroleum sites.</p> <p>For more information about what, when and how to notify and see the <i>Notification of incident and injury guide</i>.</p>
Information to adjoining petroleum site operators	<p>There is a duty on petroleum site operators to, on request, exchange information with other petroleum or mine operators at adjoining mines or petroleum site about any activities that could create a risk to health and safety of workers at the adjoining mine or petroleum site.</p>
Information, training and instruction	<p>There are duties on a petroleum site operator to ensure appropriate and specified information, training and instruction is given to workers and visitors on hazards and the management of risks associated with these, and in certain circumstances (such as before a worker commences work at the petroleum site).</p> <p>Induction must be provided for a worker before commencing work at the site, and suitable information given to visitors.</p> <p>A PCBU (including a petroleum site operator) at a petroleum site must ensure that each worker engaged by the person is trained, and is competent, in basic risk management techniques used at the mine having regard to the nature of the work carried out by the worker.</p> <p>Records of training provided must be kept.</p> <p>Compliance with these requirements will not be required at commencement. A transitional period of 12 months will apply to all petroleum sites before being implemented.</p>
Specific control measures	<p>In addition to general requirements to control risks, a petroleum site operator must manage risks to health and safety associated with specified hazards at a petroleum site. These hazards include:</p> <ul style="list-style-type: none"> • Communication between outgoing and incoming shifts • Movement of mobile plant • Explosives and explosive precursors • Electrical safety
Specific control measures – Minimum age	<p>The petroleum site operator must take all reasonable steps to ensure that a person under the age of 16 years is not engaged to carry out any of the following work in respect of petroleum operations including:</p> <ul style="list-style-type: none"> • activities ("petroleum activities") carried out for the purpose of extracting petroleum from the ground, or injecting petroleum into the ground (but only where the primary purpose of the injection is to inject petroleum into the ground or to return petroleum to the ground), or exploring for petroleum, • activities (including the handling, preparing, processing or storing of extracted materials) carried out in connection with petroleum activities at a local site, • activities associated with decommissioning, making safe or closure of an petroleum extraction site or petroleum exploration site.
Specific controls measures – Prohibited items and substances	<p>The petroleum site operator must take all reasonable steps to ensure that ignition sources and explosives as specified in Schedule 4 are not used in a place or for a purpose that is prohibited or restricted as set out in that Schedule.</p>

<p>Specific control measures - Air quality and monitoring</p>	<p>General requirements for managing risks from airborne contaminants and hazardous atmospheres are set out in Divisions 7 and 8 of Part 3.2 of the WHS Regulations (all workplaces, including petroleum sites).</p> <p>Additional provisions apply for management of risks associated with extremes in temperature and moisture content air, and the exposure standards to be met.</p> <p>A transitional period of 12 months applies for compliance with these new provisions.</p>
<p>Specific control measures – Fitness for work</p>	<p>A petroleum site operator must manage risks associated with:</p> <ul style="list-style-type: none"> • fatigue • consumption of alcohol • use of drugs.
<p>Emergency plan</p>	<p>An emergency plan must be prepared for a petroleum site which addresses several matters additional to those required by the WHS Regulation, including:</p> <ul style="list-style-type: none"> • all aspects of emergency response • potential triggers for the activation of the plan. <p>Workers must be trained in relation to the emergency plan.</p> <p>The regulator must be notified immediately after the emergency plan is implemented in the event of an emergency.</p> <p>The emergency plan must be tested and reviewed as required.</p> <p>Note that petroleum site operators are not required to consult with emergency service organisations.</p> <p>See the Code of practice <i>Emergency planning for mines</i>.</p>
<p>Survey plans</p>	<p>A petroleum site operator must ensure that a detailed plan of the petroleum site is prepared and the plan is certified by a surveyor registered under the <i>Surveying and Spatial Information Act 2002</i>.</p> <p>A survey plan for a petroleum site must show all wells present at the petroleum site, including any wells that are suspended or decommissioned, and must be reviewed and revised as necessary or as specified.</p> <p>These are to be provided to the regulator as required.</p> <p>Compliance with these requirements will not be required during the 12 month transitional period, if the petroleum site operator instead complies with clause 503 of the PO Schedule.</p>
<p>Records</p>	<p>The petroleum site operator must keep a record for the petroleum site and contain specified records, including, but not limited to:</p> <ul style="list-style-type: none"> • a record of every incident notified to the regulator under the WHS (Mines and Petroleum Sites) Act or under clause 128 of the WHS (Mines and Petroleum Sites) Regulation, and • a summary of all records of certain reviews of control measures. <p>The petroleum site record must keep the record for at least 7 years and be available for inspection.</p>
<p>Statutory functions</p>	<p>The following statutory functions are specified in relation to activities carried out at a petroleum site:</p> <ul style="list-style-type: none"> • Rig manager (drilling operations)

	<ul style="list-style-type: none"> • Rig manager (well workover and well servicing operations) • Driller (drilling operations) • Driller (well workover and well servicing operations). <p>Before any such function is exercised at a petroleum site, the petroleum site operator must nominate an individual who holds the specified Nationally Recognised Training units to exercise the particular function.</p> <p>Compliance with these requirements will not be required at commencement. A transitional period of 12 months will apply to all petroleum sites before being implemented.</p>
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Further information

In most cases there is minimal change in the application of the WHS laws. However, basis the WHS (Mines and Petroleum Sites) laws is based largely on activity and proximity so there may be some changes in particular situations. Detailed guidance for industry will be developed to assist petroleum site holders, operators, other persons conducting a business or undertaking (PCBU) at the site, and workers.

Approved codes of practice are an important element of the WHS laws scheme as a practical guide to achieving the standards of health, safety and welfare required under the WHS laws.

Several codes of practice have been released on particular issues which are relevant to duties under the WHS (Mines and Petroleum Sites) Regulation (such as safety management systems and emergency planning). These apply only to mines and were approved following consultation with industry. Consultation on approved codes of practice for petroleum sites will be pursued separately, including the development of a well integrity control plan code of practice.

In the meantime, if you have particular issues please contact your local Mine Safety office to discuss your situation.