

DEPARTMENT OF INDUSTRY AND RESOURCES

PETROLEUM AND ROYALTIES DIVISION SUBMISSION TO THE PRODUCTIVITY COMMISSION REVIEW - REGULATORY BURDENS ON BUSINESS

B. PRIMARY SECTOR REGULATION: ISSUES RAISED IN THE TASKFORCE REPORT

PETROLEUM RELATED – PETROLEUM (SUBMERGED LANDS) ACT 1967 REGULATIONS

Background:

The Commonwealth Department of Industry Tourism and Resources recently initiated a legislative project to significantly consolidate and streamline the regulations enabled by the *Petroleum (Submerged Lands) Act 1967* (PSLA 67). This project responds to the findings of the Taskforce on Reducing Regulatory Burdens on Business (the Banks Report 2006) regarding undue costs for business that arise in the implementation of policy through regulation and the mounting concerns from business at the growth of regulation and its cumulative burdens.

The WA Department of Industry and Resources (DoIR), as the Department representing the Designated Authority (State Minister) in the joint administration of the PSLA 67 in the WA offshore area is fully committed to this process. DoIR is represented on all working groups which have been formed for this project under the auspices of the Upstream Petroleum Subcommittee (UPS). The UPS reports to the Ministerial Council on Mineral and Petroleum Resources via the Standing Committee of Officials.

The Taskforce was asked to identify and propose remedies where Australian Government regulation is 'unnecessarily burdensome', complex, redundant or duplicative. In relation to offshore petroleum legislation, the Banks Review recognised that regulations developed under the PSLA 67 require management plans to be submitted to government to address objectives for safety, the environment, pipelines, diving safety, data and well operations. While industry supports objective-based regulations, it raised concerns that including similar information in multiple management plans results in additional time and cost burdens to business.

The drafting of PSLA Regulations has been in progress since 1994 in response to a long-standing intent to shift from a prescriptive regime under the *Schedule of Specific Requirements as to Offshore Petroleum Exploration and Production* and move to an objective-based system. The PSLA 67 currently enables the following sets of single-purpose regulations:

- Management of Well Operations;
- Management of Safety on Offshore Facilities;
- Occupational Health and Safety;
- Diving Safety;
- Management of Environment;
- Pipelines;
- Datum;
- PSLA regulations;
- Data Management;
- Resource Management (forthcoming); and
- Carbon Capture and Storage (CCS) (forthcoming)

The majority of the Regulations are finalised or nearly finalised, along with supportive guidelines to assist industry's understanding and interpretation of the Regulations. The Regulations have also been harmonised to ensure that a similar approach is used in each, such as the use of risk management plans and some alignment of reporting requirements.

The consolidation project is reviewing all current single-purpose regulations with a view to merge these into three sets of regulations responding to the three basic reasons to regulate - safety, environment and resource management.

This process will reduce the cost and time associated with meeting regulatory requirements through a reduction in overlap and duplication of documentation. The project will ensure that there is no duplication between the Act and the regulations and will seek to bridge any regulatory gaps.

Progress to Date:

The consolidation review project is nearing the end of its first milestone, the production of an internal report and recommendations. This review has aimed, through consultation and research, to reveal areas of duplication, regulatory overlap and grey areas, overly onerous approval processes, duplicative reporting requirements and any other issues which might be impacting on industry.

The consultation phase has been undertaken with industry and other government agencies. Discussions centred on a number of key themes including regulatory creep, management and development plans, consents, reporting requirements, the role of guidelines and clarity, transparency and consistency in regulations and guidelines.

Industry often noted appreciation of regulations and guidelines which contained some prescriptive elements where justified – these comments were mostly related to lists of data requirements, and to basic templates for plans and reports. Road maps of reporting and regulatory requirements were also frequently mentioned as being a valuable way to improve transparency of regulatory requirements.

Future Work:

The project team chaired by DITR with WA's participation via working group and UPS membership will now prepare an internal report with recommendations for the way ahead. Some of the recommendations will be able to be implemented easily, while others will require more detailed work before they can be actioned, and so the process of consolidating the regulations is likely to be an iterative one, with changes being implemented over time. Despite this, there is no intention to allow this to become a lengthy process and it is expected that many changes will reach the drafting stage during the course of 2007, with the easier recommendations implemented before the end of the year.

State and Commonwealth PSLA Overlap and Duplication

The WA submerged lands legislation (the *Petroleum (Submerged Lands) Act 1982*) mirrors most of the Commonwealth PSLA regulations (eg the four safety regulations and the management of well operations regulations). This requirement underpins the 1979 Offshore Constitutional Settlement (OCS) for the administration of the submerged lands area. The purpose of the OCS was to generally maintain the States role in the management of offshore areas, particularly on “.....topics which history, common sense and the sheer practicalities of the matter mark out for State administration rather than Commonwealth administration, in the absence of overriding national or international considerations.”

It is well recognised that the petroleum industry is an industry with unique circumstances and a unique system of regulation. This is no more apparent than in the oft-used example of the Cliff Head oil development near Dongara. This project, for a small offshore oil field in Commonwealth waters, involved construction of an unmanned platform and a pipeline spanning three jurisdictions from the platform to an onshore processing plant from which oil is trucked to the BP Kwinana Refinery.

The safety, environment and public risk factors for the Cliff Head project differ within each jurisdiction. The platform is located within the valuable Western Rock Lobster fishery. The oil pipeline from the platform passes under the coastal reef with a beach crossing before passing through a variety of land tenure, (including a nature reserve), before reaching the processing facility in a disused quarry. The pipe lay issues on the pipe lay barge, (technical, safety and environmental) differ markedly from the pipe lay construction process onshore with the added complexity of a beach crossing.

There is no overlap in this body of petroleum law as the two *Petroleum Submerged Lands Acts* cover separate jurisdictions. In WA, the consistency model of the offshore regime is being carried over to the onshore legislation. This is in line with Western Australia's long-standing commitment to the common petroleum mining code. The safety regulations for the submerged lands acts are providing the model for the development of the onshore safety regulations for both *Petroleum Pipelines Act 1969* and the *Petroleum Act 1967*. The outcome of the review process outlined above will be taken up by the State when the consolidation exercise is completed. Any amendments to the Commonwealth regulations can be mirrored in the WA regulations to ensure regulatory consistency across the State and Commonwealth petroleum legislation.

6 June 2007