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Welcome to the General Policy Review Bulletin #4

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Minor Amendments to the Offshore Petroleum Act

Since the Bill has passed through parliament, the Department has been working on several issues and will be holding a discussion session on Wednesday 18 October 2006 as part of the AMPLA Conference. Issues to be discussed include the Registration and Dealings provisions and Carbon Capture and Storage Issues.

The *Offshore Petroleum Act 2006 (OPA)* will not be proclaimed until all the States and the Northern Territory have updated their mirror legislation.

In the mean time, we have several updates on other minor amendments we have been working on.

Firstly, the Department is proposing to remove s192 from the *OPA* (s73 *Petroleum (Submerged Lands) Act (PSLA)* 1967). The common carrier provisions facilitate third party access to pipelines by allowing the Joint Authority to declare a pipeline operator to be a common carrier. The common carrier provisions have been in *PSLA* since 1967 and have never been used, various legal commentators have observed that it is uncertain how the provision would operate if it were ever used.

The Department is of the view that the common carrier provisions have been superseded by Part 3A of the *Trade Practices Act 1975* as such it is appropriate to remove s192 from the *OPA* as it has never been used and Part 3A provides a better and more certain framework for facilitating third party access to pipelines.

We would appreciate receiving your comments by **Wednesday 16 August 2006**.

Secondly, the Department is proposing a few amendments to the *Offshore Petroleum Act 2006* these include:

1/ Revoking section 327 of the *OPA* which provides the Commonwealth Minister with emergency powers in the area to be avoided off Gippsland in Victoria. The emergency powers have not been invoked since being added to the *PSLA* (s 140B) in 1984 and do not apply in other offshore petroleum areas.

One outcome of the investigation of Australia's maritime security arrangements announced by the Prime Minister in December 2004 was the amendment of the *Maritime Transport and Offshore Facilities Security Act 2003* (MTOFSA) to include offshore facilities. The 2005 amendments to the MTOFSA provide a broader and more time sensitive security framework than that provided by the offshore petroleum legislation.

2/ Schedule 1 of the *OPA* describes the Scheduled Areas of the States and Northern Territory. The *OPA* specifies the reference frame for this Schedule in Australian Geodetic Datum (known as AGD66). This datum dates from 1966 and is not directly compatible with the Global Positioning System, which is increasingly being used. To address this deficiency, the Geocentric Datum of Australia (known as GDA94) was devised.

At the August 2005 Upstream Petroleum Subcommittee meeting members agreed to the conversion of the geographic coordinates in Schedules 1 and 2 of the Offshore Petroleum Act (*OPA*) from AGD66 to GDA94 to the accuracy of 2 decimal places of a second. This will have a negligible effect on the actual position of these points.

This conversion is now complete and it is proposed that the *OPA* be amended to include the updated schedules.

3/ Consequential amendments to Schedule 3 Clause 3 stemming from the *Work Choices Act 2005* regarding the definition of a registered organisation. The *Work Choices Regulations 2006*, made 2 amendments to the *PSLA* and not the *OPA*. We are now seeking to make those amendments to the *OPA*.

We are happy to receive your comments or questions on these proposals.

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This occasional newsletter was prepared by the Resources Division, of the Department of Resources, Energy and Tourism.