



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

Submission templates - Work Health and Safety Regulations for Western Australia

Contents

WHS Regulations submission coversheet.....3
Section 1: Submission details3
Section 1: Permission details4
WHS Regulations submission comments.....5
Section 2: Feedback.....5

WHS Regulations submission coversheet

Section 1: Submission details

Full name	Justin Woods	
Organisation and position (if applicable)	WorkSafe HRWL registered assessor (BI & TO)	
Email	[REDACTED]	
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Employment status (if applicable)	<input checked="" 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 type="checkbox"/> Medium (20-199) <input checked="" 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 type="checkbox"/> Industry representative <input type="checkbox"/> Academic <input type="checkbox"/> Government representative <input checked="" type="checkbox"/> Professional	
Which industry sector do you operate in?	Power Generation & Mineral Processing	
Your type of job or business (if applicable)	Training & Assessment	

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

I started working in the mining industry in 1998 and became a powerhouse operational specialist in 2001. In 2003 I moved into a trainer/assessor role, again specialising in power generation. Additionally, since 2008 I have been a WorkSafe Registered Trainer/Assessor for the High Risk Work Licences Intermediate Boilers (BI) and Turbine Operations (TO).

I am in favour of many of the proposed changes that implementing the model WHS Act & Regs will bring about due to consolidations of legislation and the adoption of a National model. However, there are some areas (particularly involving Part 4.5 of the model WHS Regs) that I believe will be of detriment to operators and operations involving steam boilers. In most cases this is because the language used for the proposed WHS Regs deals with High Risk Work Licences (HRWL) as if all classes are of equal risk and/or require equal levels of training. To an industry specialist, this is clearly not the case.

One basic example is that a HRWL forklift driver may obtain a HRWL in 1 day. This same operator, under the proposed legislation may, in a worst-case scenario, injure or kill perhaps 1-2 people and involve negligible damage. A scaffolder may require to a week of training to get a HRWL, and a possible worse-case incident scenario might involve injury or death to multiple people involved in the scaffolding task if it collapses, but with little property damage. However, obtaining a boiler ticket generally takes months of training, and a worse-case incident can potentially kill and/or injure multiple people, including those external to the powerhouse, combined with massive structural/plant damage and enormous financial cost.

Another area of concern includes the statement within the differences between the national model WHS regulations and the OSH regulations 1996 document (Diff doc) that the move from the existing boiler three class rating system to a two class system "will create transition issues", but later states that such transition issues are not specified. The entire section 32 contains, in my opinion, multiple errors in its description which are addressed later in this submission.

Additionally, in the current WA OHS Regs there exist points of legislation that have no equivalent in the proposed WHS Regs. In some cases, with respect to lower risk HRWL, I concede that such points of legislation may be adequate. However, when applied to the higher risk boiler & turbine licences, I feel that they leave gaps in the duty of care we need to provide to our workforce.

Please refer to the detail comments section below for my comments on specific regulation concerns.

Detailed comments

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

Reference to specific model WHS / OSH reg no.	Comment
OHS r. 6.2 (2f) vs WHS r. 4.5 82(2a)	<p>The WA OHS regs allow for people not holding appropriate HRWL to operate equipment “in the course of its manufacture, maintenance or repair only.”</p> <p>The model WHS Regs allow non-licenced people to be involved in “...the manufacture, testing, trialling, installation, commissioning, maintenance, servicing, repair, alteration...” To legally allow people without a boiler or turbine HRWL to be involved in testing, trialling and/or commissioning high pressure classified plant is creating a high risk situation as they will not have the expertise to recognise emerging problems, nor be able to deal with them in a safe knowledgeable manner. There are many recorded incidents that show massive devastation caused by boilers and turbines being operated incorrectly during commissioning or testing activities.</p>
OHS 6.2 (2a) vs WHS 4.5 84(2a)	<p>Current WA OHS Regs require that a person in training for a HRWL must be enrolled in a recognised training course AND be supervised by a person who holds a high risk work licence for that class of work.</p> <p>The model WHS Regs requires that a person in training for a HRWL must be enrolled in a recognised training course AND be supervised by a person who holds a high risk work licence for that class of work UNLESS “...the nature or circumstances of a particular task make direct supervision impracticable or unnecessary.”</p> <p>The model WHS state that “the reduced level of supervision will not place the health or safety of the supervised person or any other person at risk.” However, the fact that supervisory people can now make their own judgement calls on this matter is disquieting, and should not be included for any HRWL work, let alone boiler and/or turbine operation.</p>
OHS sh6.3 c11 vs Diff doc 31 eg vs WHS sh3 (26,27)	<p>The WA OHS schedule 6 and the model WHS schedule 3 define the classes of boilers that apply to each set of Regs.</p> <p>The Diff doc states “For example, with an Intermediate Boiler HRWL (BI), operators can use some boilers that are capable of being fired by multiple fuels simultaneously”. This is incorrect under current WA OHS Regs which require an Advanced Boiler HRWL (BA) to perform this task. It also states that all Basic Boiler HRWL (BB) operators under the WHS Regs will have to upgrade their HRWL to a Standard Boiler HRWL even if they only want to operate a Basic Boiler. Here the definition is essentially the same (except for power output) for a WA OHS basic boiler and a model WHS standard boiler – so why do WA BB holders need to complete bridging or upgrade training to a standard boiler ticket when they are essentially hold the equivalent already?</p> <p>The statement that BI operators must also complete bridging or upgrade training to a BA licence is also unnecessary as the model WHS Regs state that an Advanced Boiler licence is required for the “Operation of a boiler, including a standard boiler, which may have one or more of the following:</p> <ul style="list-style-type: none"> (a) multiple fuel sources; (b) pre-heater;

	<p>(c) superheater; (d) economiser”</p> <p>This meets the current definition for the WA OHS BI licence. A WA OHS licence is only required when operating a boiler that is capable of being fired by multiple fuels <u>simultaneously</u> – which is not the same as having multiple fuel <u>sources</u>.</p> <p>In the cases identified above, the expense involved for businesses in performing unnecessary upgrading / bridging training could be significant, with very little additional beneficial outcomes.</p> <p>Essentially, in my opinion, current WA OHS BB holders should have their licences transitioned automatically to a model WHS Standard Boiler HRWL, and WA OHS BI holders be transitioned to model WHS BA licences WITHOUT the requirement for any additional or bridging training.</p> <p>If an upgraded BI operator transfers to a workplace with a boiler with which they have no exposure/experience, it is standard industry practise that they be deemed competent in the operation of the new boiler before being permitted to operate it unsupervised, regardless of whether it is one that fires multiple fuel sources simultaneously or not, thus covering any potential shortfalls.</p> <p><i>NB: WA OHS BA holders be changed directly to model WHS BA licences without issue.</i></p>
<p>OHS 6.20 (2d) vs WHS (no equivalent)</p>	<p>The WA OHS Regs require that an assessor shall not issue a notice of satisfactory performance regarding the issue of a HRWL UNLESS “... the person has sufficient knowledge of the English language, both written and oral, to safely do work of that class.”</p> <p>The model WHS Regs have no such proviso, which, is a big oversight. This relates not only to the issue of boiler and turbine HRWLs, but also other more complex HRWLs such as intermediate rigging (for double crane lifts) or advanced scaffolding (for drop down suspension builds). Having a reasonable understanding of English is necessary for many aspects of such work, from completing valuable hazard/risk evaluations to maintaining effective communication across work teams.</p> <p>For work covered under a national unit of competency, “reasonable adjustment” is possible, but the current assessment instruments for HRWLs do not allow for this, so sufficient levels of English literacy are still a requirement and should be stated as such to protect assessors and companies from unfair accusations of discrimination, as well as provide continued duty of care by ensuring safe systems of work are maintained.</p>
<p>OHS 6.3 vs WHS (no equivalent)</p>	<p>The current WA OHS Regs specify that certain prescribed high risk work equipment shall not be left unattended. The model WHS Regs have no provision for this. This will, I believe, allow potentially critical incidents to occur involving equipment that must be attended at all times to allow for safe operation, or more importantly, must have human intervention to allow for immediate safe shutdowns to be undertaken in the event of an emergency.</p>
<p>OHS 6.32 vs WHS (no equivalent)</p>	<p>The current WA OHS Regs require RTOs keep all records relating to training and assessment for 5 years. The new model WHS Regs have no equivalent for the retention of records. In my experience, in the event of an</p>

incident, one of the first stops for information has always been the training records of the person/s involved. If none have to be kept, then none will be, delaying or impeding safety investigations.

Additionally, how can consistency of training and/or assessment be successfully audited if records are not kept for comparison purposes.

Lastly, the National VET Standards rules of evidence regarding competency, which require that training records should be kept for a minimum of six months, should be adhered to. This is the national training Standard, and the Regs should reflect this requirement as a minimum.