

Memorandum of Understanding WorkSafe Victoria and Energy Safe Victoria



THE PARTIES

Victorian WorkCover Authority ABN 90 296 467 627 trading as WorkSafe Victoria (**'WorkSafe Victoria'**) the statutory authority responsible for administering various Victorian legislation including but not limited to the *Workplace Injury Rehabilitation and Compensation Act 2013*, the *Occupational Health and Safety Act 2004*, the *Dangerous Goods Act 1985*, the *Equipment (Public Safety) Act 1994*, the *Accident Compensation Act 1985*, the *Workers Compensation Act 1958*, and regulations made under those Acts (**'Victorian OHS Law'**).

AND

Energy Safe Victoria ABN 27 462 247 657 ('ESV'), a statutory authority created under the *Energy Safe Victoria Act 2005* and responsible for administering the *Gas Safety Act 1997*, *Electricity Safety Act 1998*, various provisions of the *Pipelines Act 2005* and regulations under those Acts (**'energy safety legislation'**).

1. PURPOSE

- 1.1. This Memorandum of Understanding ("**MOU**") and its Schedules set out the understanding between the parties as a voluntary statement of intent and commitment at the time the MOU is signed and for the duration of the MOU. The MOU is not intended to create legally enforceable obligations between the parties, and is of no legal effect.

2. TERM

- 2.1. This MOU is effective from the date of signing and continues until either party notifies the other in writing of their withdrawal from this MOU.

3. OBJECTIVES

- 3.1. WorkSafe Victoria and ESV share the following objectives:
 - (a) to ensure that, so far as is reasonably practicable, energy safety is promoted, encouraged and enforced, and that these requirements are administered in a consistent manner;
 - (b) to assist Victorian workplaces achieve best practice levels of safety for workers and the public in relation to the conveyance, supply and use of energy;
 - (c) to ensure the effective co-operation of both parties in the administration of their respective requirements in relation to the matters set out in the Schedules; and
 - (d) to assist workplaces and other entities or persons affected by the matters set out in the Schedules to meet the requirements of both parties without any unnecessary duplication of effort or creating burden that is not commensurate with improved safety outcomes.

4. UNDERTAKINGS

- 4.1. WorkSafe Victoria and ESV undertake to give effect to the arrangements and procedures set out in the Schedules.
- 4.2. WorkSafe Victoria and ESV undertake to establish and maintain liaison contacts to ensure the effective operation of this MOU.
- 4.3. Liaison contacts for this MOU are at Schedule 4.
- 4.4. WorkSafe Victoria and ESV undertake to provide information from time to time to inform each other's staff of their roles and responsibilities in areas of common regulatory interest, and any relevant changes to the legislative and regulatory instruments administered by them.

5. PRIVACY

5.1. WorkSafe Victoria and ESV respectively agree:

- (a) that each is bound by relevant privacy legislation with respect to any act done or practice engaged in by them under or in connection with this MOU;
- (b) any personal or health Information disclosed by one to the other in connection with this MOU has been collected in accordance with applicable privacy legislation;
- (c) the individual to whom personal or health Information relates has been made aware of the identity of the organisation collecting the information and of the other matters of which the individual is required to be informed under applicable privacy legislation;
- (d) the disclosure of personal or health information to, and its use by, the organisation to which it is disclosed is authorised by the individual or by law;
- (e) not to use, disclose, store, transfer or handle personal or health Information collected in connection with this MOU except in accordance with applicable privacy legislation; and
- (f) to co-operate with any reasonable request of the other party relating to the protection of personal or health information or the investigation of a complaint about the handling of personal or health Information.

5.2. In this MOU:

- **Privacy legislation** means the *Privacy and Data Protection Act 2014* (Vic) and the *Health Records Act 2001* (Vic);
- **Health information** has the meaning given to that term in the *Health Records Act 2001* (Vic); and
- **Personal information** has the meaning given to that term in the *Privacy and Data Protection Act 2014* (Vic).

6. CONFIDENTIAL INFORMATION

6.1. With respect to any information supplied by one party to the other in connection with this MOU which is designated as confidential, each party agrees to:

- (a) protect the confidential information in a reasonable and appropriate manner and in accordance with any applicable laws and professional standards;
- (b) use and reproduce confidential information only for the purposes set out in this MOU;
- (c) not disclose or otherwise make available confidential information other than to its personnel who have a need to know the information to give effect to the purposes set out in this MOU.

6.2. This paragraph shall not apply to information which is:

- (a) publicly known;
- (b) already known to the receiving party; or
- (c) permitted by either WorkSafe Victoria or ESV to be disclosed to a third party without restriction.

6.3 Restrictions on the sharing of information

Notwithstanding anything in this MOU, which may be amended or varied from time-to-time, nothing permits either party to share or disclose information or documents in circumstances where such information sharing or disclosure would:

- (a) be contrary to law;
- (b) waive legal privilege over such information;
- (c) compromise a party's investigation;
- (d) not be in the public interest to share or disclose information that relates to matters of state, having regard to the considerations included at section 130(4) of the Evidence Act 2008 (Vic);
- (e) contravene the respective privacy provisions of the legislation administered by either party which prescribe circumstances in which either party may disclose or share information with others; or
- (f) contravene the relevant privacy legislation.

7. AMENDMENT

- 7.1. This MOU may be amended; or the Schedules to this MOU may be amended, added to or removed; with the written agreement of the Liaison contacts – see Schedule 4 for more information.
- 7.2. If any legislative provision is amended or repealed such that any clause of this MOU is inconsistent with that legislative provision or is no longer of effect, that clause will be deleted and the remaining clauses of this MOU will remain in effect.

8. GENERAL

8.1. Dispute Resolution

The parties agree to co-operate and use all reasonable endeavours to resolve any disputes or differences between them ('Disputes'). Disputes which remain unresolved for 30 days or more will be referred to WorkSafe Victoria's Chief Executive and ESV's Director of Energy Safety, or their respective nominees, for binding resolution.

8.2. No Authority

Neither party may enter into any agreement or incur any liabilities on behalf of the other party without that other party's prior written consent and may not represent to any person that it has any authority to do so. This MOU cannot authorise any party to administer the other party's legislative or regulatory instruments

8.3. Counterparts

This MOU may be executed in any number of counterparts.

8.4. Costs and Expenses

Each party will bear its own costs and expenses in relation to the negotiation, preparation, execution, delivery and completion of this MOU and any other related documentation.

8.5. Review

This MOU will be jointly reviewed by the liaison contacts on an annual basis or otherwise as agreed in writing between the parties.

8.6. Publication

Both parties agree that the other party can publish the MOU on its website for transparency purposes.

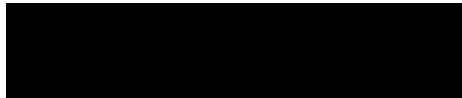
**Executed for the
Victorian WorkCover Authority**



**COLIN RADFORD
Chief Executive**

Date: 27/09/2020

**Executed for
Energy Safe Victoria**



**MARNIE WILLIAMS
Director of Energy Safety**

Date: 1 September 2020

MOU between WorkSafe Victoria and Energy Safe Victoria

SCHEDULE 1 – INCIDENTS AND MATTERS OF INTEREST FOR THE PURPOSES OF SCHEDULE 2

1. GENERAL

Through WorkSafe Victoria's administration Victorian OHS Law, and Energy Safe Victoria's administration of energy safety legislation, there are electrical, gas and pipeline related risks, incidents and matters which are of interest to both parties.

2. DEFINITIONS

'Educative or enforcement project' means a major project with a focus on electrical or gas or pipeline risks involving visits to individual workplaces by WorkSafe Victoria Inspectors or ESV Inspectors which are not directly in response to specific incidents (not being audits that WorkSafe Victoria or ESV are required to carry out or choose to carry out).

'electrical risk' means any risk involving electricity which is of interest to both ESV and WorkSafe Victoria.

'entry report' means a documented report drafted by a WorkSafe Victoria appointed Inspector following entry to a place in accordance with the requisite provisions of OHS legislation.

'ESV Enforcement Officer' means a person appointed as an enforcement officer under Part 11 of the *Electricity Safety Act 1998* or a person appointed as an inspector under the *Gas Safety Act 1997* or the *Pipelines Act 2005*.

'gas risk' means any risk involving fuel gas which is of interest to both ESV and WorkSafe Victoria.

'investigation' means a formal investigation of an incident conducted by either party with a view to determining the circumstances of the incident, and whether there is sufficient evidence to demonstrate a breach of legislation administered by either party to warrant enforcement action being undertaken (including prosecution).

'investigation report' or **'incident report'** means any report prepared by either party as part of an investigation into an incident.

'non workplace' means any place other than a workplace.

'notification report' means written documentation resulting from incident notification to WorkSafe Victoria as prescribed by section 38 of the *Occupational Health and Safety Act 2004*.

'pipeline risk' means any risk involving a pipeline and petroleum or other substances conveyed in a pipeline licensed under the *Pipelines Act 2005*, which is of interest to both ESV and WorkSafe Victoria.

'prescribed equipment' means equipment as defined in Regulation 6 of the *Equipment (Public Safety) Regulations 2017*.

'incident' has the same meaning:

- a) as described in section 37 of *the Occupational Health and Safety Act 2004* resulting from electrical risks, gas risk or pipeline risks; or
- b) a serious electrical incident as defined in section 3 of the *Electricity Safety Act 1998*; or
- c) a gas incident as defined in section 3 of the *Gas Safety Act 1997*; or
- d) a reportable safety incident as defined in regulation 5 of the *Pipelines Regulations 2017*.

'serious incident' means any gas incident, serious electrical incident or reportable pipeline safety incident of interest to ESV including the following scenarios:

- A fatality or serious injury (hospitalisation) caused by gas or electricity
- Significant/major public disruptions associated with gas, electricity or a licensed pipeline that involve an evacuation, major transport disruption or a significant outage, that has wide spread impacts on public safety
- High voltage injections causing death, injury or significant property damage
- Reasonably suspected carbon monoxide poisoning from a gas installation/appliance
- Strikes on a licensed pipeline
- Property loss by fire believed to be caused by electrical infrastructure and where ESV attendance is required by another agency (e.g. VicPol)
- Gas or electrical transmission asset failure with the potential to harm the public
- Unlicensed/unregistered electrical or gas fitting work
- Unsafe electrical installation work
- Unsafe electrical equipment
- Major fires and explosions caused by gas or electricity

'WorkSafe Inspector' means an officer or employee of WorkSafe Victoria appointed as an inspector under Victorian OHS Law.

'workplace' means any place, whether or not in a building or structure, where employees or self-employed persons work.

2. RISKS, INCIDENTS AND MATTERS OF INTEREST

2.1 Electrical, gas and pipeline related risks, incidents and matters which are of interest to both parties (for the purposes of Schedule 2) include:

- (a) where persons die, are injured or the potential for injury was present at a workplace, and electrical or fuel gas hazards were contributory factors;
- (b) damage to electrical equipment, or the risk of damage to electrical equipment, where there is the potential to injure people arising from:
 - i) electrical hazards dealt with under AS/NZ 3012:2010 in electrical installations that are designated workplaces,
 - ii) works on or in the vicinity of network assets including underground cables and overhead lines (at distribution and transmission voltages) and generators. Some examples are:

- a crane driver moving a crane jib near live powerlines;
 - a worker removing, pruning or clearing vegetation near or from around overhead electric lines;
 - a worker excavating near underground powerlines;
 - iii) electrical equipment malfunctioning resulting in electrical shocks or consequential risks (e.g. mechanical, thermal) in a designated workplace;
- (c) gas risks to workers or the general public associated with:
- i) gas leaks in complex gas installations that are designated workplaces
 - ii) works on or in the vicinity of gas transmission or distribution pipework and associated components and fittings, including, for example, situations such as workers engaged in excavation or drilling penetrating high pressure gas supply pipes; and

Within these above listed confines, electrical, gas and pipeline risks, incidents and matters which are of interest to both parties are not necessarily restricted by:

- (d) tasks being undertaken;
- (e) the industry involved;
- (f) the occupation of those involved;
- (g) the temporary, or otherwise, nature of the risk.

The above list demonstrates the broad range of risks, incidents and matters which are of interest to both parties. However, there are gas, electrical or pipeline risks that would be of interest to only one of the parties, rather than both. Examples of these are listed below:

2.2 **Electrical** risks which are of interest only to **Energy Safe Victoria** include:

All risks, incidents and matters *apart from 2.1(b) above*, associated with implementation of the *Electricity Safety Act 1998* and its regulations and their referenced standards:

- (a) Unattended exposed live parts without the permanent basic protection (as defined in AS 3000) fixed in place
- (b) Any non-compliance with a provision of the wiring rules that has the potential to contribute to a future serious electrical incident;
- (c) Installation defects caused by incompetent electrical work that, if connected to supply upon the completion of electrical works, will:
 - Allow immediate access to live parts; or
 - Create an immediate potential for electric shock, explosion or fire.
- (d) Damage to electrical equipment, or the risk of damage to electrical equipment, where there is no potential to injure people;

- (e) Electrical risks, incidents or matters associated with Commonwealth workplaces¹ and quarries; and
- (f) Risks and incidents at non-workplaces *apart from 2.1(b) above*.

2.3 **Electricity** related risks which are only of interest to **WorkSafe Victoria** include:

All risks, incidents and matters *apart from 2.1(b) above*, associated with the *Occupational Health and Safety Act 2004*, the *Dangerous Goods Act 1985*, the *Equipment (Public Safety) Act 1994* and their associated regulations and compliance codes.

These risks, incidents and matters could include:

- (a) Mechanical risks or incidents from electrically powered equipment e.g. run-down cycles; and
- (b) 'unsafe' actions involving electrically powered equipment and fixtures apart from those unsafe actions specifically covered by the *Electricity Safety Act 1998* and its regulations and their referenced standards. Some examples are:
 - i) overriding an interlock switch;
 - ii) excess water around properly installed electrical equipment;
 - iii) the repair of low voltage plant and equipment while it is physically disconnected from electricity supply.

2.4 **Pipeline** risks of interest only to **Energy Safe Victoria** are licensed pipeline incidents that represent a threat to the mechanical integrity of the pipeline.

2.5 **Gas** risks of interest only to **WorkSafe Victoria** are injuries to employees and other persons or potential for injury, or property damage associated with liquefied petroleum storage vessels with an aggregate capacity exceeding 500 litres.

¹ Commonwealth workplaces may be of interest to WorkSafe Victoria if Comcare specifically request it to investigate an issue.

SCHEDULE 2 INSPECTION, EVENT AND INCIDENT INVESTIGATION

1. GENERAL

Among other things, this Schedule addresses how WorkSafe Victoria and ESV will deal with risk and incident investigation, prosecution, notification of incidents and exchange of information where the jurisdiction of these parties overlap. Guidance is also provided on the jurisdictional overlap.

Refer to Schedule 1 for guidance on risks, incidents and matters of interest to both parties for the purposes of this Schedule.

2. JURISDICTION

2.1 WorkSafe Victoria through administration of Victorian OHS Law aims to reduce the incidence and severity of workplace and work-related injury, disease and death by:

- i) investigating incidents;
- ii) enforcing Victorian OHS Law, and prosecuting relevant summary and indictable offences;
- iii) undertaking preventative activities; and

aims to reduce risks to public health and safety arising from work-related activities.

In doing so, WorkSafe may respond to issues at all Victorian workplaces concerning:

- (b) the health, safety and welfare of employees and other persons in Victorian workplaces and dangerous goods sites as specified in the Occupational Health and Safety Act 2004 and the Dangerous Goods Act 1985; and
- (c) the design, construction, manufacture, installation, erection, alteration, maintenance, repair and use of prescribed equipment as defined in the Equipment (Public Safety) Act 1994.

2.2 ESV through administration of the *Electricity Safety Act 1998*, the *Gas Safety Act 1997*, and the safety-related provisions of the *Pipelines Act 2005* and their regulations, has jurisdiction over:

- (a) the safe conveyance of fuel gas in pipelines and distribution networks, including gas quality, the safe supply and use of fuel gas in appliances and complex gas installations, and control of the safety standards of gas fitting work for complex gas installations;
- (b) the safe generation, transmission, distribution and use of electricity, the safety of electrical equipment, electrical installations and electrical work; and
- (c) the safety of pipelines conveying substances described in section 9 of the Pipelines Act 2005.

3. ARRANGEMENTS

3.1 The following arrangements will apply to WorkSafe Victoria and ESV activities in relation to risks, incidents or matters which are of interest to both parties for the purposes of this Schedule (refer to Schedule 1 for guidance):

- (a) All WorkSafe Victoria Inspectors will have a copy of this Schedule or have access to it. Likewise, all ESV authorised officers will have a copy of this Schedule or have access to it.
- (b) Instructions to WorkSafe Victoria Inspectors and ESV Enforcement Officers/ gas Inspectors for the implementation of this Schedule will be developed, in consultation, by both parties. These instructions shall be incorporated into the respective policies and procedures of both parties. Each party will have access to the other party's current instructions as required.
- (c) WorkSafe Victoria and ESV publications will be circulated and used by both parties where relevant.
- (d) WorkSafe Victoria and ESV will arrange for appropriate staff to participate in relevant training conducted by either party.
- (e) When either party undertakes any educative or enforcement project concerning electricity safety or gas safety or pipelines conveying petroleum or other dangerous goods, it will consult with the other party at least one month prior to the initiative commencing in order to ensure any potential issues of concern to the other can be addressed prior to the project commencing.
- (f) Where there has been an incident of interest to both parties, ESV or WorkSafe Victoria staff will notify the other party's emergency contact number as soon as practicable. Copies of notification reports prepared by WorkSafe Victoria will also be made available to ESV upon request where permitted by law.
- (g) For information, the following incident response contact numbers apply:-

WorkSafe Victoria	24 hour emergency response number	0407 833 306
Energy Safe Victoria	24 hour emergency number	1800 000 922

- (h) Any entry reports and/or investigation reports, or summaries thereof, resulting from investigations of an incident will be made available to both parties upon request (subject to any legislated restrictions on disclosure of information).
- (i) Incidents of interest to both parties may be jointly investigated by WorkSafe Victoria and ESV. WorkSafe Victoria and ESV may agree on which of them will take the lead role.
- (j) Notwithstanding clause 4.1 (i) above, where investigations of incidents disclose evidence that offences involving the jurisdictions of both parties have occurred then each party will determine whether to take enforcement action under its legislation on those circumstances. Where one or both parties determine to take enforcement action, the parties shall assist each other as

appropriate. In so doing, and to the best of their abilities, each party will provide the other with expert affidavits when so requested.

- 3.2 If either party becomes aware of a serious incident at any workplace or non-workplace that may be of interest to the other party, it will notify the other party within 24 hours. This is in addition to 3.1(f) above.
- 3.3 WorkSafe Victoria and ESV may agree to share with each other incident related data and information, for incidents and other matters that are not considered to be serious incidents, on a periodic basis.
- 3.4 In carrying out their responsibilities in relation to requests under the *Freedom of Information Act 1982*, each party will have regard to the interests of the other, and will consult the other party if it is proposing to take any action or make a decision that will have an impact on the interests of the other party.
- 3.5 The primary contact persons for all matters covered in this Schedule are listed in Schedule 4.
- 3.6 WorkSafe Victoria and ESV will meet annually or more frequently as agreed to discuss any cross-jurisdictional issues and operational arrangements in relation to the objectives of clause 3.1. The meetings will be attended by, as a minimum, the nominated contact persons or their delegates. The meetings will be chaired by either party.
- 3.7 The parties will establish and maintain protocols which provide guidance on how to give effect to clause 3.1.
- 3.8 Where an issue arises between the parties in relation to any matter covered in this Schedule, the nominated contact persons will meet and attempt to resolve the issue. Where the nominated contact persons jointly come to the view that they are unable to resolve the issue, the Chief Executive of WorkSafe Victoria and the Chief Executive Officer of ESV will meet and attempt to resolve the issue. Where the Chief Executive of WorkSafe Victoria and the Chief Executive Officer of ESV jointly come to the view that they are unable to resolve the issue, they will jointly appoint a person with appropriate independence, expertise and experience to resolve the matter.

MOU between WorkSafe Victoria and Energy Safe Victoria

MOU between Victorian WorkCover Authority and Energy Safe Victoria

SCHEDULE 3 - MAJOR HAZARD FACILITIES

1. DEFINITIONS

‘Business day’ means a day other than a Saturday, Sunday or public holiday in Victoria

‘major hazard facility’ means a major hazard facility as defined in the *Occupational Health and Safety Regulations 2017*.

‘Major Hazard Facilities Regulations’ means Part 5.2 and other relevant Parts and requirements of the *Occupational Health and Safety Regulations 2017* pertaining to major hazard facilities.

‘Incident’ means:

- (i) a notifiable incident as described in section 37 of the *Occupational Health and Safety Act 2004* resulting from gas or electrical or pipeline risks;
- (ii) a serious electrical incident as defined in section 3 of the *Electricity Safety Act 1998*;
- (iii) a gas incident as described in section 3 of the *Gas Safety Act 1997*;
- (iv) a safety incident as described in regulation 5 of the *Pipelines Regulations 2017*.

‘Safety Case’ means –

- (i) a *Safety Case* as defined in the Major Hazard Facilities Regulations; or
- (ii) a *Gas Safety Case* for a facility as defined in section 37(2) of the *Gas Safety Act 1997*; or
- (iii) an *Electricity Safety Management Scheme* as described in Part 10 of the *Electricity Safety Act 1998*; or
- (iv) A pipeline *Safety Management Plan* or *Construction Safety Plan* as described in the *Pipelines Act 2005*.

2. JURISDICTION

- (a) Through administration of Victorian OHS Laws, WorkSafe Victoria has jurisdiction over registered and licensed major hazard facilities.
- (b) Through administration of the *Electricity Safety Act 1998* and its regulations, the *Gas Safety Act 1997* and its regulations, and the *Pipelines Act 2005*, ESV has jurisdiction over installations, facilities, assets and places which may also be major hazard facilities.

3. PRINCIPLES

The following general principles will apply in relation to WorkSafe Victoria and ESV activities on major hazard facilities:

- (a) WorkSafe Victoria and ESV will share information on major hazard facilities which are of interest to both parties, including information on safety cases, significant audits and investigations, and prosecutions in accordance with relevant privacy and information sharing legislation.
- (b) WorkSafe Victoria and ESV will collaborate to set and achieve strategic objectives for safety at major hazard facilities.
- (c) WorkSafe Victoria and ESV may jointly conduct audits and inspections of major hazard facilities which are of interest to both agencies with the objective that, as far as reasonably practicable, there is no duplication or overlap of inspections and audits of major hazard facilities.
- (d) Where it is necessary for a party to conduct an urgent audit or investigation under its legislation of an incident in a major hazard facility which is of interest to both parties, the party will notify the other party as soon as practicable of the action being taken.
- (e) WorkSafe Victoria and ESV will jointly assess relevant elements of the Safety Cases of major hazard facilities which are of interest to both parties.
- (f) WorkSafe Victoria and ESV will collaborate on new major hazard facility developments with the objective of avoiding duplication in Safety Cases to meet the requirements of both jurisdictions where practicable.
- (g) In carrying out their responsibilities in relation to major hazard facilities, each party will have regard to the interests of the other, and will consult the other if it is proposing to take any action that will have an impact on the interests of the other party.

4. ARRANGEMENTS

To give effect to the principles outlined above –

4.1 Contacts

- (a) The primary contact persons for all matters covered in this Schedule are listed in Schedule 4.
- (b) Both agencies will maintain and exchange up to date lists of operational contact persons for matters covered in this Schedule, including contact persons for sites, incident response, policy and MOU administration matters.

4.2 Cooperation on New Major Hazard Facilities

Where legislation permits:

- (a) WorkSafe Victoria will advise ESV within 10 business days of a new or potential major hazard facility that:
 - i) has been notified to WorkSafe Victoria under the Major Hazard Facilities Regulations;
 - ii) or has come to WorkSafe Victoria's attention by some other means; and

provide other information about the facility as agreed.

- (b) WorkSafe Victoria will make available to ESV a list (as updated from time to time) of all major hazard facilities, together with other relevant information as agreed.
- (c) ESV will inform WorkSafe Victoria within 10 business days of receiving advice of a new or potential major hazard facility, the extent of its interest in the facility and the extent of its desired involvement with WorkSafe Victoria in relation to that facility.
- (d) WorkSafe Victoria and ESV will consult, share information and cooperate on new major hazard facility developments that the parties become aware of. The parties:
 - i) will cooperate to enable proponents to develop and submit integrated Safety Cases and safety management systems that address jurisdictional requirements of both parties; and
 - ii) may cooperate to encourage integration of Safety Cases and safety management systems at existing major hazard facilities.

4.3 Cooperation on Registered and Licensed Major Hazard Facilities

- (a) WorkSafe Victoria will consult ESV in preparation of post-licence oversight plans for licensed major hazard facilities ESV has an interest in. ESV will be invited to take part in audits, inspections or review work as part of post-licence oversight of these licensed major hazard facilities.
- (b) WorkSafe Victoria and ESV may jointly conduct audits and inspections of major hazard facilities which are of interest to the parties with the objective that, as far as practicable, there is no duplication or overlap of inspections and audits of major hazard facilities.
- (c) The parties will meet periodically as agreed to undertake strategic planning, set objectives, and review safety performance of:
 - i) major hazard facility industry sectors; and
 - ii) specific major hazard facilities as may become necessary;and both parties may cooperate on activities intended to implement or achieve joint planned objectives for major hazard facility industry sectors or specific major hazard facilities.

4.4 Cooperation on Safety Case Assessment

- (a) Where ESV has advised WorkSafe Victoria that it has an interest in relation to a major hazard facility, WorkSafe Victoria will invite ESV to participate in the team undertaking the assessment of the facility's Safety Case. ESV will make a person available to participate in the assessment team in relation to the review of the Safety Case (or portions of the Safety Case) and/or provision of technical and practical advice and/or inspections and audits.

- (b) For each major hazard facility for which ESV will participate with WorkSafe Victoria in assessment, WorkSafe Victoria will establish a Safety Case assessment project plan and both parties will consult on and agree the scope of work of ESV team member/s for that Safety Case assessment.

4.5 Incidents, Investigations and Prosecutions

- (a) Where legislation permits, on immediately becoming aware of it, each party will provide information to the other on any incident, explosion or major fire at any major hazard facility that is of interest to them.
- (b) Where agreed, WorkSafe Victoria and ESV will conduct joint investigations of incidents. In any case, the parties will exchange information on the investigation of incidents at places for which both parties have direct regulatory responsibilities, including information on the outcome of investigations and any potential implications for safety or environment at other facilities.
- (c) Prior to commencing a prosecution relating to a major hazard facility that is of interest to both parties, each party will consult with the other party via the primary contact person. Where both parties agree that it is appropriate, joint prosecutions may be undertaken.
- (d) WorkSafe Victoria may periodically analyse major hazard facility incident trends and patterns, and make this information available to ESV. The parties may cooperate on preventative activities in response to emerging incident trends for major hazard facility industry sectors or specific major hazard facilities.

4.6 Communication and Administration

- (a) WorkSafe Victoria and ESV will meet annually or more frequently as agreed to share information and discuss strategic and operational issues on major hazards facilities of interest to both parties. The agenda of formal meetings will include:-
- i) strategic and policy issues relevant to major hazard facility safety;
 - ii) significant operational matters raised with major hazard facilities or involving the cooperation of both parties;
 - iii) new or proposed major hazard facilities;
 - iv) incidents, prosecutions & emerging incident trends; and
 - v) operational planning (upcoming audits, inspections, training etc.)

The meetings will be attended by, as a minimum, the nominated primary contact persons or their delegates. The meetings will be chaired by WorkSafe Victoria or ESV.

- (b) WorkSafe Victoria and ESV will consult in the preparation of any guidance material that is developed in relation to major hazard facilities that is of interest to both parties to meet their legislative obligations, or to ensure the effective operation of this Schedule.
- (c) Each party will notify the other as far in advance as is practicable of any relevant training courses it conducts. Where the other party is interested in participating in a course, the party conducting the course will make at least one place available for an appropriate person from the other party.
- (d) Where an issue arises between the two parties in relation to any matter covered in this Schedule, the nominated contact persons will meet and attempt to resolve the issue. Where the nominated contact persons jointly come to the view that they are unable to resolve the issue, the Chief Executive of WorkSafe Victoria and the Director of ESV may meet in order to resolve the issue.
- (e) To the extent permitted by the relevant software licences, WorkSafe Victoria and ESV will share the use of computer software in their possession that will assist in the administration of major hazard facilities.
- (f) In carrying out their responsibilities in relation to requests under the *Freedom of Information Act 1982*, each party will have regard to the interests of the other, and will consult the other party if it is proposing to take any action that will have an impact on the interests of the other party.

MOU between WorkSafe Victoria and Energy Safe Victoria
SCHEDULE 4 – LIAISON CONTACTS

1. CONTACTS

The following are the liaison contacts for WorkSafe Victoria and ESV by title:

- (a) For this MOU:
 - WorkSafe Victoria – the Head of Hazardous Industries and Industry Practice
 - ESV – General Manager, Risk, Regulatory Planning & Policy
- (b) For Schedules 1 and 2:
 - for WorkSafe Victoria, the Director, Enforcement Group
 - for ESV, the General Manager, Risk, Regulatory Planning & Policy
- (c) For Schedule 3:
 - for WorkSafe Victoria, Director, Major Hazards & Systems Safety, Hazardous Industries & Industry Practice
 - for ESV, the Head of Gas & Pipeline Infrastructure Safety
- (d) For Schedule 5:
 - for WorkSafe Victoria, the Manager, Dangerous Goods
 - for ESV, the Head of Gas & Pipeline Infrastructure Safety

The Liaison contacts listed at item 1(a) of this Schedule for each party can update or substitute any of the Liaison contacts of their organisation in writing to the other Liaison contact at item 1(a) of this Schedule.

Further, the Liaison contacts listed at item 1 (a) of this Schedule may update this MOU or its Schedules by agreement.

MOU between WorkSafe Victoria and Energy Safe Victoria
SCHEDULE 5 - REGULATORY BOUNDARIES – LP GAS

1. GENERAL

This Schedule describes the regulatory boundaries in the LP Gas supply industry to help the parties and others who have an interest in that market, understand what the respective roles each party has in the supply chain.

It explains which parts of that supply chain are subject to oversight by WorkSafe Victoria and which are subject to oversight by ESV, and define their respective regulatory interests. It also establishes the arrangements for dealing with LP Gas supply safety issues and resolution of questions which may fall in WorkSafe Victoria's jurisdiction.

2. DEFINITIONS

'Cylinder' is a type of gas storage vessel that complies with AS 2030.

'Gas installation' has the same meaning as in the *Gas Safety Act 1997*.

'Gas quality' means the prescribed standards of quality of gas for the purposes of the *Gas Safety Act 1997*.

'Gas supply point' means the outlet of the primary shut-off valve of a LPG gas storage vessel.

'LPG' means liquefied petroleum gas and includes LP Gas

'LP Gas' means the composition of commercial butane or commercial propane defined in AS 4670.

'LP Gas facility' is any place used by a supplier of LP Gas to perform work, whether or not that supplier is a LP Gas Company.

'LP Gas Company' means a legal entity that supplies LP Gas that has been declared to be a Gas Company by the Governor in Council under the *Gas Safety Act 1997*.

'LP Gas Supplier' means any entity which supplies LP Gas in any form to another person (typically in a cylinder or by in-situ filling), and includes a LP Gas Company.

3. JURISDICTION

- (a) Through administration of the *Dangerous Goods Act 1985* and its regulations, WorkSafe Victoria has jurisdiction over:
- i) the integrity of LP Gas cylinders, and their storage and handling;
 - ii) LPG gas storage vessels with aggregate capacity of 500 litres or more which are connected to a gas installation; and
 - iii) the filling of LPG cylinders and storage vessels.

- (b) Through administration of the *Gas Safety Act 1997* and its regulations, ESV has jurisdiction over:
- i) gas quality in the LP Gas supply chain to the gas supply point; and
 - ii) LPG gas storage vessels with aggregate capacity of less than 500 litres which are connected to a gas installation; and
 - iii) the safety of complex gas installations from the gas supply point, and any gas fitting work performed on those installations; and
 - iv) the activities of LP Gas Companies, as they relate to the minimisation of hazards and risks to the safety of the public and customers, in accordance with the statutory duties and accepted gas safety case under the *Gas Safety Act 1997*.

4. PRINCIPLES

The following general principles will apply in relation to WorkSafe Victoria and ESV activities in relation to the storage and handling of LP Gas:

- (a) WorkSafe Victoria and ESV's areas of regulatory interest do not overlap, which means each party can act autonomously and without reference to each other;
- (b) Notwithstanding Clause 4 (a) above, each party will have regard to the regulatory interests of the other, and will consult the other if it is proposing to take any action that will have an impact on the interests of the other party.

5. ARRANGEMENTS

To give effect to the principles outlined above –

5.1 Contacts

- (a) The primary contact persons for all matters covered in this Schedule are listed in Schedule 4.
- (b) Both agencies will maintain and exchange up to date lists of operational contact persons for matters covered in this Schedule, including contact persons for sites, for incident response, for policy and MOU administration matters.

5.2 Cooperation in relation to all suppliers of LP Gas

- (a) If ESV becomes aware of unsafe cylinders or work practices which it suspects may be unsafe or non-compliant with Victorian OHS Laws, then it will advise WorkSafe Victoria as soon as possible of that suspicion and its basis.
- (b) If WorkSafe Victoria becomes aware of:
 - i) any matter which it suspects may affect the quality of gas for supply which is unsafe either by not being odourised or, in the case of LP Gas, compliant with AS 4670;
 - ii) the supply or sale of gas for use in a gas installation which is unsafe;
 - iii) unsafe or unlicensed gas fitting work performed on a complex gas installation,

then it will advise ESV as soon as possible of that suspicion and its basis.

5.4 Incidents, Investigations and Prosecutions

- (a) Where agreed and appropriate, WorkSafe Victoria and ESV will conduct joint investigations of events and incidents. In any case, subject to any relevant privacy or other laws concerning the release, use and disclose of information, the parties will exchange information on the investigation of accidents and incidents at LP Gas facilities for which both parties have direct regulatory responsibilities, including information on the outcome of investigations and any potential implications for safety or environment at other facilities.
- (b) WorkSafe and ESV will also notify each other, and transfer complaints between each other, as agreed by the Liaison contacts.
- (c) WorkSafe Victoria may periodically analyse incident trends and patterns involving LPG, and make this information available to ESV. The parties may cooperate on preventative activities in response to emerging incident trends for major hazard facility industry sectors or specific LP Gas facilities.