

Memorandum of Understanding

in relation to the regulation of
Radiation Safety for Mining Operations

between the



Department of Mines and Petroleum

and the

Radiological Council
in Western Australia



December 2012

Memorandum of Understanding

Radiation Safety for Mining Operations Working Arrangements



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21/12/12

DATE



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Memorandum of Understanding

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Memorandum of Understanding

Radiation Safety for Mining Operations Working Arrangements

1. Purpose

The purpose of this Memorandum of Understanding (MoU) between the Department of Mines and Petroleum (DMP) and the Radiological Council is to –

- clarify administrative arrangements, roles and responsibilities on matters pertaining to the regulation of radiation safety for mining operations;
- formalise communication, approvals coordination and collaboration; and
- supplement and assist the Radiation Liaison Committee (RLC) which is established under this MoU to provide a framework for liaison between the two agencies.

Through this MoU, DMP and the Radiological Council seek to minimise potential overlap or duplication of regulatory responsibilities in relation to radiation safety for mining operations.

While mine sites are required to comply with the overarching requirements of the *Radiation Safety Act 1975* and any directions imposed by the Radiological Council, DMP is responsible for regulating the mining and processing of radioactive materials including the on-site accumulation and disposal of radioactive waste under Part 16 of the *Mines Safety and Inspection Regulations 1995*, for which some matters require the approval of both agencies.

Regulation of the use, storage and transportation of radioactive materials and of the possession and use of other radiation producing devices and sources is the responsibility of the Radiological Council.

This MOU is not a binding agreement and does not impose any obligations on any party.

2. Introduction and background

In Western Australia the prime legislative responsibility for all aspects of industrial, research and medical radiation safety, including the prescription of occupational and public radiation dose limits, lies with the Radiological Council, which is charged with administering the *Radiation Safety Act 1975* and its subsidiary legislation. The Act establishes the Radiological Council as an independent statutory authority responsible directly to the Minister for Health. The Act regulates the keeping and use of prescribed radioactive substances, irradiating apparatus and electronic products.

Radiation protection controls are also placed on the mining industry, through Part 16 of the *Mines Safety and Inspection Regulations 1995*, under the *Mines Safety and Inspection Act 1994*, which falls under the portfolio of the Minister for Mines and Petroleum. Part 16 is administered by the State Mining Engineer and its primary aim is to protect mine workers from the effects of radiation exposure. The regulations also cover the effects of radiation to the public and the environment.

Responsibility in some areas is therefore shared between DMP and the Radiological Council; an example being the joint recognition of radiation safety officers at mining operations. DMP and the Radiological Council recognise potential for overlap and the need for consistency in regulation. This MoU between the two authorities is intended to clarify the respective and mutual roles and ensure consistency in regulation.

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Under the Western Australian State Government's Lead Agency Framework¹, DMP has been designated as the lead agency for the coordination of project proposal approvals for mining, petroleum, geothermal and carbon capture and storage across government in Western Australia. The framework applies to all applications and proposals received by DMP. The designated lead agency consults with relevant agencies to coordinate the approval process.

3. Roles and responsibilities

The statutory roles and functions for each of the agencies remain unchanged. The requirements and intent of the legislation for each agency are not altered in any way.

Radiation safety in Australia is regulated by State and Territory agencies, however, Commonwealth agencies are regulated by the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) under the *Australian Radiation Protection and Nuclear Safety Act 1999*. Although this Act also provides a mechanism for the promotion of uniformity in radiation safety regulation by the Commonwealth, States and Territories, ARPANSA does not have a direct regulatory role for non-Commonwealth agencies.

3.1 Department of Mines and Petroleum

DMP has been designated by the State Government as the lead agency for the coordination of approvals associated with mining, petroleum, geothermal and carbon capture and storage activities in Western Australia.

DMP is responsible for administering the *Mining Act 1978*, the *Mines Safety and Inspection Act 1994* and State petroleum legislation.

Radiation safety for mining operations is regulated under Part 16 of the *Mines Safety and Inspection Regulations 1995*. These regulations make provision for, among other things, Radiation Management Plans, Radiation Safety Officers, radiation exposure, reporting and record keeping.

3.2 Radiological Council

The Radiological Council is an independent statutory authority appointed under Section 13 of the *Radiation Safety Act 1975* to administer the Act and to advise and assist the Minister for Health to protect public health and to maintain safe practices in the use of radiation². The subsidiary regulations to the Act are the *Radiation Safety (General) Regulations 1983*, the *Radiation Safety (Transport of Radioactive Substances) Regulations 2002* and the *Radiation Safety (Qualifications) Regulations 1980*.

The Radiological Council is responsible for regulating the operation, use, manufacture, storage, transport, sale, possession, installation, service, maintenance, repair, or other dealing with any

1 Lead Agency Framework Guidelines 2009
www.dmp.wa.gov.au/documents/3Lead_Agency_Guidance_Document.pdf

2 Day to day administration of the Act is handled by personnel of the Department of Health's Radiation Health Unit acting through the Secretary of the Council appointed under section 11 of the Act. The Unit's support services to the Radiological Council are independent of the Department and in that capacity not subject to its direction.

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prescribed radioactive substance, irradiating apparatus or electronic product. This encompasses both ionising and non-ionising radiation.

The registration of premises, prescribed radioactive substances, irradiating apparatus and electronic products, and the licensing of individuals (including the licensing of the Radiation Safety Officer) are the principal means by which the use of radiation is regulated.

4. Working Arrangements

Personnel at all levels in both agencies are to recognise the roles of the respective authorities, to adopt an open approach, and to ensure prompt action to achieve effective liaison whenever the need arises.

When planning agendas and programs for liaison meetings, specialist workshops and training courses, both agencies should bear in mind the advantages of representation from the other body and make suitable arrangements when appropriate.

4.1 Radiation Liaison Committee

To enhance the coordination of the administration of joint regulatory responsibilities under the *Radiation Safety Act 1975* and the *Mine Safety Inspection Act 1994* and subsidiary regulations, a Radiation Liaison Committee (RLC) is to be established. The RLC will comprise of representatives nominated by DMP and the Radiological Council.

The role of the RLC is to ensure effective coordination of the regulation of radioactive materials at mining operations including, but not limited to –

- the appointment of statutory radiation safety officers;
- the approval of radiation management plans;
- the approval of radioactive waste management plans;
- managing mine closures, decommissioning and rehabilitation; and
- other relevant authorisations.

The RLC will also review operational issues of mutual interest or concern.

An outline of the administrative arrangements and terms of reference for the RLC is provided in the attachment to this MoU.

4.2 Radiation Management Plans

A Radiation Management Plan (RMP) is required under both the *Radiation Safety Act 1975* and Part 16.7 of the *Mines Safety Inspection Regulations 1995* for any mining and processing of radioactive material.

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A RMP is also required for mineral exploration applications³ where it is likely that radioactive materials may be encountered. A RMP, approved by the State Mining Engineer, is a requirement prior to commencement of these activities. Exploration activities are not usually subject to regulation by the Radiological Council under the *Radiation Safety Act 1975* unless the proponent is in possession of prescribed radioactive substances (including radioactive mineralisation⁴ where this has been determined), irradiating apparatus or electronic products.

As part of the registration process for mining and/or processing operations and those exploration activities that are captured under the *Radiation Safety Act 1975*, the RMP must be reviewed and approved by both the DMP and the Radiological Council.

4.3 Radiation Safety Officers

A Radiation Safety Officer (RSO) is required under both the *Radiation Safety Act 1975* and Part 16.9 of the *Mines Safety Inspection Regulations 1995* for any mining and processing of radioactive material.

The nominee for the position of RSO must have appropriate qualifications and experience acceptable to both the DMP and the Radiological Council and must be approved by both agencies.

5. Escalation and Resolution

The target timeline for the assessment and consideration of approvals (including consideration of initial and each subsequent version of Radiation Management Plans, as required) is thirty business days. Where an agency has approval issues that appear to have the potential to significantly exceed target timelines, the appropriate contact officers of the other agency should be advised. Unresolved approval issues may be referred to the Radiation Liaison Committee for advice on resolving such issues.

6. Disagreements

Where an issue arises between DMP and the Radiological Council in relation to any matter in this MoU, the RLC will attempt to resolve the issue. Where the issue is not resolved, the Director General, DMP and the Chairman of the Radiological Council will undertake to resolve the issue.

If the matter is not resolved from this meeting, then joint legal advice will be sought as and if necessary, or the matter shall be referred to the respective Ministers for decision.

3 Under a Programme of Work

4 Radiation Safety (General) Regulations 1983, Regulation 5

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7. Communication protocols

As the first point of contact, project approval communications should be conducted through the designated contact officers listed in section 8.

Where possible, to ensure effective communication between the agencies, the appropriate contact officers listed in section 8 should be copied on interagency communications.

8. Agency Contacts

The key departmental contact officers and contact details are listed below. They are the first point of contact for information and advice regarding radiation safety relating to mining proposals.

8.1 Radiological Council

Secretary of the Radiological Council	08 9388 4999
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8.2 Department of Mines and Petroleum

Resources Safety Division

State Mining Engineer	08 9358 8553
Principal Health Advisor	08 9358 8091
Inspector of Mines	08 9358 8086

Approvals Group

Senior Advisor, Approvals	08 9222 3896
Principal Project Officer, Approvals	08 9222 3041
Senior Environmental Officer, Environment Division	08 9222 3204

9. Review period

The Senior Advisor, Approvals, DMP and the Secretary of the Radiological Council will be responsible for the oversight and administration of this MoU.

The content and the effectiveness of the working arrangements are to be reviewed annually. Changes to this MoU will be considered during the review process.

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Attachment – Radiation Liaison Committee

The Radiation Liaison Committee (RLC) is established to provide a framework for liaison between the Department of Mines and Petroleum (DMP) and the Radiological Council.

Administrative Arrangements

The decisions and outcome of the RLC do not limit the statutory obligations and decision making of each agency.

The chairperson is to be a six-month rotating appointment shared between the agencies. The chairperson does not have overarching voting rights.

A quorum is formed if, in addition to the Chair, there is representation from –

- At least two representatives of the Radiological Council; and
- At least two representatives from DMP.

The functions and membership of the committee will be reviewed within twelve months of commencement.

The agency whose representative is presiding as the current chairperson will also provide the secretarial support for the meetings held during the period.

A record of the proceedings of every meeting shall be kept, and shall be certified as correct by the member presiding at that or the next succeeding meeting.

Membership

The members of the committee will be identified by Director General, DMP and the Chairman of the Radiological Council. The attendance of officers from other relevant government agencies may be requested as necessary.

The RLC shall consist of –

- 2 DMP representatives with relevant radiation protection and/or mining expertise
- 1 DMP Approvals Group representative
- 2 Radiological Council representatives with relevant radiation protection and/or mining expertise
- The Secretary of the Radiological Council or a delegate
- The State Mining Engineer or a delegate

Frequency of meeting

The RLC will initially meet monthly. However, the frequency will be reviewed as necessary.

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Terms of Reference

1. The purpose of the Radiation Liaison Committee (RLC) is to enhance the coordination of the administration of joint regulatory responsibilities under the *Radiation Safety Act 1975* and the *Mine Safety Inspection Act 1994* and subsidiary regulations.
2. The RLC will facilitate communication and collaboration between the Department of Mines and Petroleum and the Radiological Council in relation to areas of mutual responsibility, including appointments of statutory radiation safety officers; review and consideration of radiation management and radioactive waste management plans; review and consideration of reports and notifications; compliance and inspections, mine closure, decommissioning and rehabilitation; and other authorisations as the RLC sees fit.
3. The Radiation Liaison Committee members will be responsible for –
 - promoting effective communication of resource sector radiation protection matters between the Department of Mines and Petroleum and the Radiological Council;
 - provision of advice to the Department of Mines and Petroleum and the Radiological Council;
 - sharing information including technical requirements, standards and codes of practice, and identifying and initiating actions that will improve the administration of radiation protection within the Western Australian resource sector;
 - reviewing radiation protection policy, approval processes and procedures in relation to mining and milling operations;
 - monitoring industry trends; and
 - provision of reports of industry compliance.