



# Government of Western Australia Ministerial Advisory Panel

*"Advising on Best Practice Safety Regulation"*

Meeting date	27 May 2010
Agenda item	3. Updates

Agenda item type:     For information     For decision     For information and decision

## Recommendation

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It is recommended that:

1. Members **note** the attached updates:
  - a. RADARS
  - b. Mines Safety and Inspection Levy
  - c. National reforms
  - d. Communications

## Decision

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Recommendation	Yes	No	Comments
It is recommended that: <ol style="list-style-type: none"><li>1. Members <b>note</b> the attached updates:<ol style="list-style-type: none"><li>a. RADARS</li><li>b. Mines Safety and Inspection Levy</li><li>c. National reforms</li><li>d. Communications</li></ol></li></ol>			



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## Progress Update

### LEGISLATION

- The Mines Safety and Inspection Levy Regulations 2010 were gazetted on 23 April 2010, becoming effective 24 April 2010.
- The following sets of regulations and the proclamations for the Petroleum Legislation Amendment and Repeal Act 2005 (PLARA) and the Petroleum Amendment Act 2007 (PAA) were gazetted on Friday 14 May 2010, and took effect the next day (except as indicated below):
  - Petroleum Pipelines Amendment Regulations (No.2) 2010 (effective 14 May);
  - Petroleum Pipelines (Management of Safety of Pipeline Operations) Regulations 2010;
  - Petroleum Pipelines (Occupational Safety and Health) Regulations 2010;
  - Petroleum and Geothermal Energy Resources (Management of Safety) Regulations 2010; and
  - Petroleum and Geothermal Energy Resources (Occupational Safety and Health) Regulations 2010.
- The Department continues to provide input into COAG reforms under the National Mines Safety Framework and National Occupational Health and Safety Legislation Harmonisation.

### CAPACITY

#### Recruitment of additional staff for Resources Safety

- *New appointments:* Project Director - started 17 May 2010; Project Manager started 10 May 2010.
- *Recruitment in progress:* Broad advertising campaign for 7 positions resulted in 21 applications, selection process currently being managed.
- *Upcoming job advertising:* Developed a new range of position advertising with a modified job pack to include financial and non-financial benefits equivalent to medium salary range of comparative resource sector positions.
- Media advertising campaign approved to cover the next 4 years - this will include exemption from standard government media requirements.

#### Attraction and retention initiatives

- Existing Attraction and Retention Benefits (ARB's) confirmed for a further two year period.
- Development initiated on a new attraction and retention allowance that is expected to include payment against agreed milestones linked to the RADARS strategy.
- Other employment benefits are under consideration for regional areas where there are identified significant attraction and retention issues.
- Temporary employment register online systems have been promoted to allow direct applications of identified positions.

### COMPETENCY

- Work continues on the Safety Regulation System, which will replace the outdated systems currently used for mines safety, petroleum safety and dangerous goods safety. In late 2010, industry will be able to directly lodge and view Monthly Status Reports via a website interface.



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## **Mines Safety and Inspection Levy - update**

- Information on the Mines Safety and Inspection Levy, including a Fact Sheet summarising the legislative requirements was added to the DMP website at <http://www.dmp.wa.gov.au/9859.aspx> on 5 May 2010.
- A Frequently Asked Questions document was added to the website on 11 May 2010, and this is being updated as more questions are received.
- A letter with the Fact Sheet was mailed to a total of 545 resource companies CEOs on 11 May 2010. Of these, 20 letters were returned, details corrected and then re-sent.
- On 10 May 2010, the letter and Fact Sheet were emailed to all 237 Principal Employers, including those with 10 or less workers. Principal employers will be the recipients of the levy assessment notices. This email served as a final check to verify the accuracy of principal employers' email addresses - 26 emails were returned, all of these were quickly resolved.
- On 12 May 2010, a further 814 emails were sent to all industry contacts used by Resources Safety, including Registered Mine Managers, Exploration Managers, and administrative staff. This email included the levy Fact Sheet, the new Monthly Status Report form (which includes one additional box at the bottom for totalling worker hours for the levy) and the new guidelines for submitting the form. Fourteen emails were returned and all were quickly resolved.
- The levy financial and IT systems have been tested and independently audited.



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# National Reforms

### ***National Harmonisation of Occupational Health and Safety Laws***

On 29 April 2010 Safe Work Australia (SWA) members agreed by majority to endorse the current version of the amended *Model Work Health and Safety Act* (WHS Act) and to recommend it to the Workplace Relations Ministers' Council (WRMC) for noting.

The WRMC endorsed the WHS Act on 11 December 2009 subject to any further agreed technical and drafting amendments between Parliamentary Counsel's Committee (PCC) and SWA. The SWA communiqué and the WHS Act are accessible at [www.safeworkaustralia.gov.au](http://www.safeworkaustralia.gov.au) .

### ***National Mine Safety Framework (NMSF)***

Further meetings of the NMSF Steering Group have been held in late April and May. Recommendations in respect to the NMSF Legislation Framework Drafting Instructions (Strategy 1) for mining specific legislation will be considered at the Ministerial Council on Mineral and Petroleum Resources (MCMPR) meeting on 28 May 2010.

The NMSF consists of seven strategies, focussed on key areas where consistency across jurisdictions would be most beneficial to the industry. The seven strategies are:

- a nationally consistent legislative framework;
- competency support;
- compliance support;
- a nationally coordinated enforcement protocol;
- consistent and reliable data collection and analysis;
- effective consultation mechanisms; and
- a collaborative approach to research.

The seven strategies were endorsed by the MCMPR in October 2008. The NMSF Steering Group noted that as the Secretariat's work over the past few months has been focussed on finalising the above drafting instructions in order to ensure their incorporation in the Model WHS Regulations via the Ministerial Councils, work on the remainder of the strategies was deferred.



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## **Communications - update**

A number of communication activities are planned for RADARS over the coming month. Further to the industry letter that was sent out from Richard Sellers in early May, explaining that the first Assessment Notice will be sent to Industry in mid-June, the following activities are now planned:

- From June 9 – June 25 a small advertising campaign will be run in key regional newspapers, covering the areas of Kalgoorlie, Geraldton, Port Hedland and the Pilbara, as well as Perth and state-wide through The West Australian and WA Business News. These advertisements will assist to introduce and explain the RADARS strategy to stakeholders, in particular the mining industry and the general community.
- To coincide with the first Assessment Notice going to industry, a briefing to key media journalists will occur. The media will be briefed on RADARS, the role of inspectors - their responsibilities, their priorities and so on. The Assessment Levy and its purpose will also be explained.
- Beginning around July/August, a major recruitment campaign will begin for the first lot of additional mine inspectors.
- Industry briefings will be set up to explain the 'how to' practicalities of calculating their financial obligations in regards the Safety Levy. A workshop-type format is planned.



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Meeting date	27 May 2010
Agenda item	4. RADARS Strategy - Key Principles

Agenda item type:     For information     For decision     For information and decision

## Recommendation

It is recommended that:

1. Members **discuss** the attached Key Principles of the RADARS Strategy
2. Members **agree** to the Key Principles, to enable the working groups to commence their work on developing and implementing the strategy.

## Background

A RADARS strategy diagram was circulated to members at the initial meeting on 19 March 2010 and members requested clarification of the strategy at the 21 April meeting.

At the 21 April meeting, it was decided that some key principles would be developed to more clearly explain the strategy, and these were to be discussed and agreed at the 27 May meeting. The key principles will then enable the Panel to begin tasking working groups with developing and implementing initiatives.

## Key points

For the risk-based approach to mines safety regulation, it was agreed that the principles would use Chapter 6 of the Kenner Review as a starting point.

## Decision

Recommendation	Yes	No	Comments
It is recommended that: <ol style="list-style-type: none"><li>1. Members <b>discuss</b> the attached Key Principles of the RADARS Strategy</li><li>2. Members <b>agree</b> to the Key Principles, to enable the working groups to commence their work on developing and implementing the strategy.</li></ol>			



## ***RADARS STRATEGY: Key Principles***

### **1. Reforms implemented under RADARS will, as much as possible, align with national reforms.**

The State Government has agreed to adopt the bulk of the model laws proposed for the national harmonisation of occupational health and safety.

Development of the RADARS strategy must consider the COAG and NMSF national reforms and associated timeframes. Some initiatives could require national approval through Safe Work Australia.

For consistency, national Work Health and Safety Act definitions of worker and duty of care will be adopted.

### **2. Proactive, risk management approach; less prescription where possible**

Current legislation imposes strict, prescriptive, and complex technical requirements. The current trend of more emphasis on risk management and less on detailed prescription will continue.

The risk-based approach puts the onus on operators to demonstrate that they understand the hazards and risks of their particular workplaces, and have implemented control measures to eliminate or manage these risks.

### **3. A differential approach to mines safety regulation**

A single, industry-wide safety regime may be inappropriate. Larger, more complex and well resourced operations may obtain considerable benefit from the implementation of a more sophisticated risk management approach based on hazard control principles. A differential regulatory approach would accommodate the differing size, complexity, motivation, level of sophistication and resourcing of mine operations across the State.

One tier could mirror the approach adopted in the oil and gas sectors, and be available on an “opt-in” basis for those mining operations that wish to select this option voluntarily. On “opting in” and acceptance/approval by the Regulator, the mine could be exempted from compliance with the prescriptive technical Regulations.

The focus of second tier mining operations would be on safety management systems and principal hazard controls, as used in Queensland and New South Wales. The emphasis should be on implementation, demonstration, and verification of adequacy.

The third tier would cover small open cut operations, such as quarries, exploration, etc employing ten or less employees. These would be exempt from the requirement to develop formalised safety management systems and principal hazard management plans.



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### 4. Data-driven decision making (by the regulator)

This would involve:

- the collection, collation and analysis of incident and accident data;
- results of inspections, audits and investigations;
- safety performance indicators;
- number and nature of complaints against operators;
- risk profiling

This data would be used in decisions about compliance and education programs, based on evidence and risk profiles.

### 5. Performance and transparency

The Ministerial Advisory Panel, formed to advise the Minister on best practice safety regulation, includes industry and union members. The Panel plays a key role in advising on the development, communication and implementation of RADARS reforms. The RADARS project team provides progress updates to the Panel at each meeting, so that the Panel can disseminate information to industry and workers.

A RADARS communication strategy has been developed to ensure industry and workers are kept informed.

Cost recovery revenue and expenditure will be subject to independent auditing and review by the Ministerial Advisory Panel. The money is held in special purpose accounts to ensure that it can only be spent on the safety regulation of the relevant industry.

The regulator will develop performance indicators to enable efficiency and effectiveness improvements to be measured. These will be agreed with the Ministerial Advisory Panel and made public.

### 6. Competency

A professional training and development program, including nationally-recognised training is being implemented. This will ensure consistency amongst inspectors and technical staff, with ongoing professional development to increase the competency of the regulator.

Performance measurement of staff will be reviewed to ensure efficiency and effectiveness is maximised. Contract staff will have additional KPIs to meet in order to receive their full salary benefits.

### 7. Capacity

Staff resources will be balanced against needs, however some recruitment is needed now to address attrition, support current compliance programs, and assist with implementation of the necessary reforms.

New attraction and recruitment initiatives are being developed, including a job package that would be competitive with external comparative positions.

The organisational structure is being reviewed to enhance service delivery.



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### **8. Legislation**

The Department continues to provide input into COAG reforms under the National Mines Safety Framework and National Occupational Health and Safety Legislation Harmonisation.

Existing legislation will be reviewed to align with these initiatives, and new legislation is required to implement some of the reforms. Dedicated petroleum safety legislation will also be developed.

### **9. Investigations**

A dedicated team of experts will investigate serious incidents, leading to targeted safety initiatives.

### **10. Information and data management**

Enhanced data management and analysis systems will replace the disparate and outdated compliance and licensing systems currently used for mines safety, petroleum safety and dangerous goods safety. When commissioned, this will significantly improve the level of service provided to industry, by enabling data-driven decision making.



# Government of Western Australia Ministerial Advisory Panel

“Advising on Best Practice Safety Regulation”

Meeting date	27 May 2010
Agenda item	5. Work groups

Agenda item type:     For information     For decision     For information and decision

## Recommendation

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It is recommended that:

1. Members **discuss** the membership of the work groups and **nominate** representatives to the work groups as required
2. Members **discuss and agree** the tasks, expectations and timeframes for the work groups
3. Members **agree** that the first working groups will action the following tasks:
  - *Risk-based approach to mines safety regulation* – Determine terminology, expected outcomes, timeframes, initial actions required.
  - *Performance and transparency* – Determine expectations; develop reporting format
  - *Legislative reform* – Initial discussions on what is required

## Background

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At the 21 April meeting, it was decided that upon key principles being agreed by the Panel at the meeting on 27 May, the Panel will begin tasking working groups with developing and implementing initiatives.

The initial three priorities are as listed above.

## Key points

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### ***Risk-based approach to mines safety regulation***

At the Panel meeting on 21 April, it was agreed that Chapter 6 of the Kenner Review would be a suitable starting point. Kenner recommends a differential approach, and this has been included in the RADARS Key Principles (subject to Panel approval on 27 May):

A single, industry-wide safety regime may be inappropriate. Larger, more complex and well resourced operations may obtain considerable benefit from the implementation of a more sophisticated risk management approach based on hazard control principles. A differential regulatory approach would accommodate the differing size, complexity, motivation, level of sophistication and resourcing of mine operations across the State.

- One tier could mirror the approach adopted in the oil and gas sectors, and be available on an “opt-in” basis for those mining operations that wish to select this option voluntarily. On “opting in” and acceptance/approval by the Regulator, the mine could be exempted from compliance with the prescriptive technical Regulations.
- The focus of second tier mining operations would be on safety management systems and principal hazard controls, as used in Queensland and New South Wales. The emphasis should be on implementation, demonstration, and verification of adequacy.

- The third tier would cover small open cut operations, such as quarries, exploration, etc employing ten or less employees. These would be exempt from the requirement to develop formalised safety management systems and principal hazard management plans.

**Performance and transparency**

At the Panel meeting on 21 April, members expressed the need for transparency on how and where levy funds are spent, and accounting for funds left over in the Mines Safety Account.

There was also discussion about performance indicators for both industry and the regulator, working together to achieve safety and health outcomes.

A draft report is attached for consideration by the work group.

**Legislative reform**

A number of legislative reforms are planned, including the development of dedicated petroleum safety legislation, and the legislation required to implement safety reforms in mining. These must also take into consideration the national reforms such as the national model Work Health and Safety Act, the National Licensing System, and strategies being implemented by the National Mine Safety Framework.

**Decision**

Recommendation	Yes	No	Comments
<ol style="list-style-type: none"> <li>1. Members <b>discuss</b> the membership of the work groups and <b>nominate</b> representatives to the work groups as required</li> <li>2. Members <b>discuss and agree</b> the tasks, expectations and timeframes for the work groups</li> <li>3. Members <b>agree</b> that the first working groups will action the following tasks: <ul style="list-style-type: none"> <li>• <i>Risk-based approach to mines safety regulation</i> – Determine terminology, expected outcomes, timeframes, initial actions required.</li> <li>• <i>Performance and transparency</i> – Determine expectations; develop reporting format</li> <li>• <i>Legislative reform</i> –Initial discussions on what is required</li> </ul> </li> </ol>			



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## ***PERFORMANCE REPORT 2009/10*** ***Resources Safety***

### **Background**

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In September 2009, the Minister for Mines and Petroleum the Hon Norman Moore MLC announced a major shake-up of safety regulation of the State's resources industries, with the aim of achieving "best practice".

With the implementation of the new Reform and Development at Resources safety (RADARS) strategy, the regulator will be able to more effectively regulate safety in the mining, petroleum and dangerous goods sectors.

The Minister also announced a cost recovery approach to safety regulation.

The first phase is the introduction of a Mines Safety and Inspection Levy to cover the cost of safety regulatory services for the mining sector.

### **Mines Safety**

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<b>Proactive</b>	<b>Reactive</b>
Number of inspectors with RPL Diploma	Number of serious incident investigations
Number of staff training hours per FTE	Number of investigations into complaints against mines
Quality and timeliness of technical assessments and approvals	Number of website hits
Quality and timeliness of technical advice	Number of State Administrative Tribunal inquiries
Number of inspections	Number of COHS review decisions against RSD
Number of audits	Time taken to produce fatality reports
Monitoring of notice compliance	Time taken to produce investigation reports
Number of contacts with safety and health representatives	Time taken to assess case for prosecution
Number of contacts with industry	Time taken to prepare brief for State Solicitor's Office
Number of safety meetings with sites	
Number of guidance publications developed	
Project Management Plan approvals completed within required timeframe	

## Mines Safety and Inspection Levy

The initial levy is \$0.75 per hour worked by workers.

For the 2010/11 year period, the levy will be \$0.125 per hour worked.

In subsequent financial years the levy rate will be determined annually, dependent upon the hours worked in the industry and the budgeted cost of the Department providing Mines Safety services.

In calculating the levy over/under collection will be taken into account.

All mining operations (including exploration) regulated by the Mines Safety and Inspection Act 1994 with a quarterly total of more than 5,000 hours worked will be required to pay the levy (based on 10 average full time workers).

## Mines Safety and Inspection Levy - Financial Report

	Expenditure 2009/10 Half-year \$M	Budget 2010/11 \$M
Carry Over		
Employee Expenses		
Supplies and services		
Depreciation		
Corporate overheads		
Legal Expenses		
Sub-Total		
Revenue		
Less Bad Debts		
Less Expenditure		
Sub-Total		

### 2009/10 Expenditure

(Explanatory comments)

### 2009/10 Achievements

(New initiatives funded (e.g. recruitment) and why they were necessary).

Other key achievements during the period include:

- A
- B
- C

# 2010/11 Budget

A thorough review of the full Mines Safety Budget has been undertaken.

The estimated cost of mines safety regulatory services in 2010-11 is \$xx.xx million which is an increase/decrease of \$x.xxx million over actual expenditure in 2009-10.

(Include explanatory comments)

For the 2010/11 year period, the levy will be \$0.125 per hour worked.

In subsequent financial years, the levy rate will be determined annually, dependent upon the hours worked in the industry and the budgeted cost of the Department providing Mines Safety services.

## Petroleum Safety

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*(Similar to above)*

## Dangerous Goods Safety

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*(Similar to above)*

### Recommendation:

The budget relating to expenditure to be recovered by the levy is submitted to the tripartite Ministerial Advisory Panel for noting in accordance with the commitment made by the government in 2009.

NOTED / FEEDBACK PROVIDED

Signature .....

Name (print).....

Title.....

Date:     /     /