



**Government of Western Australia
Ministerial Advisory Panel**

"Advising on Best Practice Safety Regulation"

AGENDA

**19 March 2010, 2pm - 4pm
Conference Room 1 - Level 8 South,
Mineral House - 100 Plain Street, East Perth**

Item No.	Item	Time
1.	Welcome and introductions	Chair
2.	Key State Government Policy Decisions* & Strategy	Chair
3.	Terms of Reference*	Chair
4.	Strategy for risk-based mines safety legislation (Presentation by Malcolm Russell)	Panel
5.	Measuring performance (Presentation by David Eyre)	Panel
6.	COAG national reforms and the implications*	Malcolm Russell
7.	Next Meeting – 21 April 2010 – 8:30am	

*** Pre-reading Information Papers:**

- *Key State Government policy decisions*
- *Progress update*
- *National reforms (National harmonisation of OH&S laws; NMSF)*
- *Terms of Reference*



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Key State Government Policy Decisions

1. Best Practice

The Department will implement 'Best Practice' safety regulation by establishing a modern legislative base, increasing capability (including adequate resources), and adopting nationally-accredited standards of competency.

2. Additional resources

The Department has received Government approval to increase its resources by up to 72 staff by the end of the 2011/2012 financial year.

3. Ministerial Advisory Panel

A Ministerial Advisory Panel has been formed to provide advice to the Minister for Mines and Petroleum on the development and implementation of best practice safety regulation.

4. Cost recovery will be implemented

The Government announced in September 2009 that the majority of costs associated with implementing improved safety regulation in the resources sector would be met through cost recovery. Community service obligations will continue to be funded by the Government. The phased implementation of cost recovery is as follows (subject to Parliamentary process):

- Mines Safety and Inspection Levy – Before 30 June 2010
- Petroleum Safety Levy – Late 2010
- Dangerous Goods Safety – 1 July 2011

5. Mines Safety and Inspection Levy

The cost recovery model for mining will be similar to the Queensland approach in that the levy will be calculated on the number of full time equivalent workers at each mining operation.

6. An Investigations Unit will be established

A dedicated team of experts will be formed to investigate serious accidents. This will lead to targeted safety initiatives aimed at eliminating the root causes of accidents.

7. Additional support for uranium mining.

To support the increased activity in this sector, the Government set a high priority on recruiting the necessary technical expertise.

8. COAG national reforms to occupational health and safety

The State Government has agreed to adopt the bulk of the model laws proposed for the national harmonisation of occupational health and safety. However, WA is unlikely to introduce some aspects of the proposed model, such as changes in relation to the level of penalties and right of entry; power for health and safety representatives to stop work; and reverse onus of proof for discrimination issues.



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Progress Update

- The Mines Safety and Inspection Amendment Bill 2009 was given Royal assent on 3 December 2009.
- Drafting of supporting regulations has commenced. It is anticipated that these will be completed and gazetted by May 2010.
- The Mines Safety Account (Agency Special Purpose Account) specified in the Act has been created to account for all revenue and expenditure.
- An independent audit will be conducted on the levy invoicing system, calculation methodology, financial management controls and procedures.
- Guidance material will be issued to industry prior to the first levy invoices being issued.
- The Training and Development Program for Resources safety staff was launched on 14 December 2009. This program is designed to lift the competency of all staff and includes nationally-recognised qualifications for inspectors.
- The *Petroleum Legislation Amendment and Repeal Act 2005* amended the *Petroleum Pipelines Act 1969* and the *Petroleum and Geothermal Energy Resources Act 1967* to provide occupational safety and health and management of safety in the onshore petroleum regulatory regime. Supporting regulations have been drafted, and will be implemented in the near future.
- High priority staff positions have been identified, and recruitment is underway. The Project Director Safety position to oversee the implementation of this reform has been advertised and a search for suitable applicants has begun.
- The Department continues to provide input into COAG reforms under the National Mines Safety Framework and National Occupational Health and Safety legislation harmonisation.

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Draft Terms of Reference

Objective

The objective is to deliver:

- a best practice safety regulatory regime for the Western Australian resources sector, based on practical risk management, and taking due account of current reforms in occupational health and safety regulation which are part of the Council of Australian Governments (COAG) Business Regulation and Competition reforms.
- a new best practice Business model, based on cost recovery and ensuring efficient service delivery strategies.

Background

In August 2009, the Government announced its intention to introduce a framework of “best practice, risk management” safety regulation for Western Australia’s resources sector.

The Minister for Mines and Petroleum announced the formation of a Ministerial Advisory Panel for the implementation of best practice safety regulation. The focus of this cost recovery model will be to reduce the likelihood of serious accidents occurring in the State’s resource industries.

The Resources Safety Division of the Department of Mines and Petroleum has responsibility for administering safety legislation across three diverse industry sectors:

- Mining and mineral processing.
- Manufacture, storage, distribution and use of dangerous goods.
- Onshore petroleum and pipelines.

Terms of Reference

The Advisory Panel will provide advice to the Director General of DMP and the project implementation team on:

- legislative reform and the development of guidance material to support these changes;
- strategies which will increase the safety capabilities of both industry and the regulator;
- performance reporting criteria and appropriate governance arrangements;
- communication and implementation of safety reforms, to ensure a common understanding.

The Advisory Panel will be chaired by the Director General of the Department of Mines and Petroleum and will report regularly to the Minister for Mines and Petroleum on the progress of implementing the risk based safety regime.



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National Reforms

The Council of Australian Governments (COAG) is working to streamline business regulation across 27 priority areas, four of which directly impact on the regulation of safety:

- Occupational Health and Safety
- National Mine Safety Framework
- Regulation of chemicals and plastics
- Licensing of tradespeople

National Harmonisation of Occupational Health and Safety Laws

The Ministerial Council for Occupational Health and Safety (Workplace Relations Ministerial Council) endorsed the Model *Work Health and Safety Act* (WHS Act) on 11 December 2009.

Safe Work Australia (www.safeworkaustralia.gov.au) are authorised to make further technical and drafting amendments prior to final approval on 29 April 2010.

The State Government has agreed to adopt the bulk of the model laws. However, WA is unlikely to adopt aspects such as changes to the level of penalties; right of entry; power for health and safety representatives to stop work; and reverse onus of proof for discrimination issues.

Regulations are currently being prepared, with a target date of June 2010 for the first draft. An exposure draft is planned for release in September 2010 for a 4-month public comment period.

National Mine Safety Framework

A number of mining-specific issues are being addressed by the National Mines Safety Framework (NMSF) under the seven strategies of legislation; competency; compliance support; enforcement; data; consultation; and research.

The legislative work under the NMSF is consistent with the WHS Act, while allowing for flexibility at jurisdictional level. It is planned that the legislative work will be finalised by 30 June 2010.

The National Mine Safety Database project is well advanced, with a target date of July 2011.

The NMSF steering group chaired by the Hon. Clive Brown includes industry and union representatives.

Impact Upon the State

All jurisdictions are required to enact the model WHS Act and Regulations, and complete transitional arrangements by December 2011.

The State Government has yet to determine how the harmonised Act and Regulations will be adopted, given that occupational health and safety law in WA is proclaimed under a number of statutes covering mining, petroleum and all other workplaces.