Government of Western Australia
Department of Mines and Petroleum

AGENDA – Asbestos Working Group

Date:	**Thursday 26 June 2014**	Time:	**10:00 – 11:30am**
Venue:	**Level 8 South, DG's Conference Room Mineral House – 100 Plain Street, East Perth**		

Item No.	Item	Who
1.	Welcome, apologies, actions from previous meeting	Chair
2.	Review *Comparison Between West Australian and National Legislation*	Working group
3.	Findings & recommendations for MAP	Working group
4.	Other business	Work Group
5.	Next Meeting: (TBD)	

Information Papers:

- Asbestos Management: Comparison Between West Australian and National Legislation (Acts, Regulations, Codes Of Practice and Guidelines)

References:

- Provisions from the Mines Safety and Inspection regulations (Part 9)
- Provisions in the National Model Work Health and Safety Regulations (Chpt 8)
- SafeWork Australia Code of Practice on Management and Control of Asbestos
- SafeWork Australia Code of Practice Safe Removal
- DMP website, link to Guideline on fibrous minerals Management, including asbestos

ASBESTOS MANAGEMENT

Comparison Between West Australian and National Legislation (Acts, Regulations, Codes Of Practice and Guidelines)

TOPIC	NATIONAL MODEL WORK HEALTH AND SAFETY REGULATIONS	NATIONAL CODES OF PRACTICE	MINES SAFETY AND INSPECTION ACT (SECTION) & REGULATIONS	WESTERN AUSTRALIA FIBROUS MINERALS GUIDELINE
OVERVIEW - REMOVAL OF ASBESTOS	Part 5.1 *General duties for plant and structures* Subdivision 1 *Management of risks* Regulation 309 *WHS management plan - preparation* Part 8.7, *Asbestos Removal Work* and Regulations 458 - 474	*How to Safely Remove Asbestos* – Code Of Practice	Regulation 9.32, *Removal of asbestos* – Removal to be undertaken in accordance with *"Code of Practice for the Safe Removal of Asbestos"*	Appendix 3, *Fibrous minerals management plan*
OVERVIEW - MANAGEMENT OF NATURALLY OCCURRING ASBESTOS	Regulation 419 (5)(b) Naturally occurring asbestos managed in accordance with and asbestos management plan prepared under Regulation 432 *Asbestos Management Plan*	*How to Manage and Control Asbestos in the Workplace* – Code Of Practice Section 5.1, *Naturally occurring asbestos*	Regulation 9.33, *Control of contaminant asbestos*	*Management of fibrous minerals in Western Australian mining operations* - Guideline
ELEMENTS OF AN ASBESTOS MANAGEMENT PLAN	Regulation 432 *Asbestos Management Plan*	*How to Manage and Control Asbestos in the Workplace* – Code Of Practice Section 4, *Asbestos management plan* Key elements of an asbestos management plan are detailed in the following left hand columns	No direct reference to asbestos management plan. Applicable Sections of Act and Regulations below	Section 6, *Fibrous minerals management plan*
1. Identification of asbestos and ACM	Regulation 34 *Duty to identify hazards* Regulation 422, *Asbestos to be identified or assumed at the workplace* Regulation 429 *Asbestos management plan*	Dot point 1 (See left hand column)	--	Section 6.2, *Management of Risk - an overview* Section 6.3, *Detailed Procedures*

TOPIC	NATIONAL MODEL WORK HEALTH AND SAFETY REGULATIONS	NATIONAL CODES OF PRACTICE	MINES SAFETY AND INSPECTION ACT (SECTION) & REGULATIONS	WESTERN AUSTRALIA FIBROUS MINERALS GUIDELINE
2. Safe work procedures & control measures	Regulation 35 *Managing risks to health and safety* Regulation 36 *Hierarchy of control measures* Regulation 44 *Provision to workers and use of personal protective equipment*	Dot point 2	Section 9, *Employers, duty of* Regulation 6.17, *Employer to identify hazards associated with plant and assess risks* Regulation 6.18, *Employer to reduce risks identified,* Regulation 9.10, *Crushing and processing plant* Regulation 9.17, *Suppression of dust drilling operations* Regulation 9.19 *Use of dust collection and dust suppression devices*	Sections 6.2, *Management of Risk – an overview* Section 6.3, *Detailed Procedures*
3. Procedures for detailing incidents, accidents etc	Regulation 429(4)(c) *Asbestos management plan*	Dot point 3	Section 11 *Duty to report some occurrences and situations*	Appendix 3, *Fibrous minerals management plan*
4. Consultation, information and training responsibilities	Workplace Health and Safety Act, Section 47 *Duty to consult workers* Section 48, *Nature of consultation* Regulation 39 *Provision of information, training and instruction*	Dot point 4 *How to Manage and Control Asbestos in the Workplace* – Code Of Practice Section 6.3 *Training Workers about asbestos or ACM*	Sections 9, *Employers duties of* Section 60 *Duties of employers and managers as to representatives* Regulation 4.13, *Induction and training of employees*	Section 10, *Information and training* Appendix 3, *Fibrous minerals management plan*
5. Control measures	Regulation 36 *Hierarchy of control measures*	Dot point 5	Regulations 9.12, *Control of atmospheric contaminants* Regulation 9.17, *Suppression of dust drilling operations* Regulation 9.19 *Use of dust collection and dust suppression devices* Regulation 9.33 *Control of contaminant asbestos*	Section 6 *Management Process* Appendix 3, *Fibrous minerals management plan*

TOPIC	NATIONAL MODEL WORK HEALTH AND SAFETY REGULATIONS	NATIONAL CODES OF PRACTICE	MINES SAFETY AND INSPECTION ACT (SECTION) & REGULATIONS	WESTERN AUSTRALIA FIBROUS MINERALS GUIDELINE
6. Timetable for managing risks of exposure, review considerations	Regulation 38 *Review of control measures* Regulation 420 *Exposure to airborne asbestos at workplace*	Dot point 6	--	Section 3, *Duty of Care*
7. Identification of responsibilities	Regulation 32 *(person conducting a business or undertaking who has a duty under these regulations to manage risks to health and safety)*	Dot point 7	Section 9	Section 3, *Duty of Care* Appendix 3, *Fibrous minerals management plan*
8. Procedures for review of plan and register	Regulation 430 *Review of asbestos management plan*	Dot point 8	--	Section 6, *Management Process* Appendix 3 *Fibrous minerals management plan*
9. Air monitoring where required	Regulation 49 *Ensuring exposure standards for substances and mixtures not exceeded* Regulation 50 *Monitoring airborne contaminant levels*	Dot point 9 *How to Manage and Control Asbestos in the Workplace* – Code Of Practice Section 6.1 *Measuring the exposure standard*	Regulation 9.13, *Sampling of atmospheric contaminants* Regulation 9.33(2) *Control of contaminant asbestos*	Sections 6, *Fibrous minerals management plan* Section 13, *Assessing exposure to airborne fibres* Appendix 6, *Sampling method for contaminant fibrous minerals* Appendix 7 *Application of the membrane filter method to contaminant asbestos monitoring in mining operations*
DISPOSAL OF ASBESTOS	Regulations 472 & 484 *Disposal of asbestos waste and contaminated personal protective equipment*	*How to Manage and Control Asbestos in the Workplace* – Code Of Practice Section 5.5 *Disposing of asbestos or ACM*	-	Section 6, *Management Process* Section 9 *Waste disposal* Appendix 3 *Fibrous minerals management plan*
HEALTH MONITORING	Part 8.5, Division 1 Regs 435 – 444, *Health Monitoring*	*How to Manage and Control Asbestos in the Workplace* – Code Of Practice Section 6.2 *Health monitoring*	Part 3 Division 4 *Health surveillance* Regulation 3.27 *Health assessment*	Section 4 *Health risks from exposure to fibrous minerals*
PERSONAL PROTECTIVE EQUIPMENT	Part 3.2, Division 5 *Personal protective equipment*	*How to Manage and Control Asbestos in the Workplace* – Code Of Practice Section 7.6 *Personal protective equipment*		

REVIEW OF DRAFT MODEL REGULATIONS

Model Work Health and Safety (Mines) Regulations

The cornerstone of the Mines Safety Regulations is the implementation of a *work health and safety management system* (WHSMS).

Work at a mine cannot proceed without an adequate WHSMS in place, which must be reviewed and revised as required.

The WHSMS includes *Principal Hazard Management Plans* (PHMP) and *Principal Control Plans* (PCP).

One of the PHMP's is *Air quality, airborne dust and other airborne contaminants.* This particular PHMP specifically includes naturally occurring asbestos.

Apart from the above Part 10.2 *Managing Risks* also includes *Control of risk, air monitoring, consultation with workers, information, training & instruction, health assessment and health monitoring*.

National Mine Safety Framework – Non Core Model Mine Drafting Instructions

One of the PCP's is a *Health Control Plan*.

The *Health Control Plan* includes *consultation, identification of roles and risk identification, assessment, control and evaluation (risk management).*

One of the specific areas mentioned in the *Health Control Plan* is *asbestos dust causing asbestosis, lung cancer and mesothelioma.*

The WHSMS for a mining operation must include a comprehensive asbestos management plan where naturally occurring asbestos is present.

SUMMARY OF REVIEW

The draft regulations are more comprehensive than the existing Mines Safety and Inspection Regulations and would adequately address all issues associated with management of naturally occurring asbestos on mine sites.

M B Rowe
20 June 2014

Government of Western Australia
Department of Mines and Petroleum

File No: A0864/201401

MEETING MINUTES – Asbestos Working Group

Date:	Thursday 26 June 2014	Time:	10:00am to 11:00am
Venue:	Level 8 South, DG's Conference Room Mineral House – 100 Plain Street, East Perth		

Present

Mr David Todd	General Manager of HSEQ, Macmahon Group (representing Chamber of Minerals and Energy WA -CMEWA)
Mr Gary Wood	Secretary, Construction Forestry Mining and Energy Union (CFMEU) Mining and Energy Division WA District (representing UnionsWA)
Mr Mike Rowe	Inspector of Mines – Health, Department of Mines and Petroleum (DMP)
Ms Jennifer Shelton	Principal Policy Officer, Department of Mines and Petroleum (DMP) (Proxy for Chairperson)
Mr David Eyre	Senior Policy Officer, Department of Mines and Petroleum (DMP)

Apologies

Mr Greg Stagbouer	Independent Chairperson, Principal Consultant, Meridio (representing Australian Drilling Industry Association) (Jennifer Shelton acting as proxy Chairperson)
Ms Jennifer Low	Policy Advisor, Chamber of Commerce and Industry WA (CCI WA) *(Proxy for Karin Lee)*
Ms Karin Lee	Manager Safety and Risk Services, Chamber of Commerce and Industry WA (CCI WA)

Agenda items

Item	Topic	Action
1.	**Introduction, apologies, actions from previous meeting**	
	• The Acting Chairperson welcomed members. • Greg Stagbouer and Jennifer Low were apologies. **Actions from previous meeting:** • *DMP to upload Terms of Reference to website:* To be completed after the Safety Legislation Reform website section is updated. • *Members to consider recommending development of an asbestos removal checklist for the resources industry:* The Working Group agreed that the current Code of Practice and Guideline are adequate. • *CCI to provide edited copy of their regulatory gap analysis to working group:* CCI advised that the gap analysis is not suitable for use by the working group. • *DMP to provide overview of principles to Chair/ Chair to prepare gap analysis matrix, incorporating CCI gap analysis and overview from DMP / DMP to circulate gap analysis to working group members for their consideration prior to next meeting:* DMP prepared a gap analysis (discussed at item 2).	
2.	**Comparison between WA and national Legislation, Codes of Practice and guidelines**	
	• In WA, safety and health related to asbestos is regulated under the WA *Occupational Safety and Health Act 1984* and the *Mines Safety and Inspection Act 1984* and regulations. • There are two national Codes of Practice: *How to Safely Remove Asbestos* and	

Item	Topic	Action
	How to Manage and Control Asbestos in the Workplace. • WA has a *Code of Practice for the Safe Removal of Asbestos* and a Guideline: *Management of Fibrous Minerals in Western Australian Mining Operations*. • The national Model WHS regulations are highly detailed and prescriptive, mainly concerned about the licensing requirements for asbestos removalists, and using licensed asbestos removalists. Part 8.4 concerning naturally-occurring asbestos is brief and refers to the requirement for an asbestos management plan and outlines the key elements of the plan. Adoption of the national Model WHS Regulations in WA is awaiting a decision by Government. • DMP is proposing modernised mines safety legislation, but it would not be in place until 2016. In the meantime, existing Codes of Practice and Guidelines may be updated. • Naturally-occurring asbestos areas are well-mapped and all current iron ore and nickel operators are aware of the asbestos issue and have Asbestos Management Plans. • Currently, the Mining Act requires operators to submit a Mining Proposal to DMP, which asks the proponent if they are likely to encounter asbestos in the area being explored/mined. o If the proponent identifies that asbestos is likely to be encountered, they are referred to Resources Safety. Mines inspectors brief them on the requirement to lodge an Asbestos Management Plan for review. o If a proponent fails to identify the risk of asbestos, commences exploration and encounters asbestiform minerals, they are required to report it to Resources Safety. The proponent will be required to lodge an Asbestos Management Plan for review. • If an operator wishes to progress from exploration to mining, Resources Safety inspectors cover the requirement for an Asbestos Management Plan in discussions with the operator prior to the commencement of mining. • If the proponent lodges an inadequate Asbestos Management Plan, it is rejected and mining cannot commence until the plan is accepted. If the proponent commences mining without having an accepted plan, they may be prosecuted. • The Asbestos Management Plan is a living document that is updated as the mining operation develops. Resources Safety verifies the Asbestos Management Plan through inspections, audits, reviews, reporting mechanisms, and consultation with Safety and Health Representatives at the mine site. • Under proposed regulations, operators will be required to submit to Resources Safety a Work Health and Safety Management System (WHSMS), consisting of Principal Hazard Management Plans (PHMPs), Principal Control Plans (PCPs) and an Asbestos Management Plan (if naturally occurring asbestos is present). Work at a mine cannot proceed without an accepted WHSMS in place, which will be reviewed and revised as required. • One of the PHMP's is *Air quality, airborne dust and other airborne contaminants,* which includes naturally-occurring asbestos. Part 10.2 of the regulations *Managing Risks* includes *Control of risk, air monitoring, consultation with workers, information, training and instruction, health assessment and health monitoring*. • Trigger Action Response Plans (TARPs) are an integral part of PHMPs, defining the actions required by mine site personnel in response to a deviation from normal mine conditions. A TARP could specify that if monitoring detects asbestos fibres, then the response plan must be put into effect.	

Item	Topic	Action
	• One of the PCP's is a *Health Control Plan,* which includes *consultation, identification of roles and risk identification, assessment, control and evaluation (risk management).*One of the specific areas mentioned in the Health Control Plan is asbestos dust causing asbestosis, lung cancer and mesothelioma. • The working group discussed the risk from asbestos during processing of magnetite iron ore. Very fine magnetite ore is passed through magnetic separators, which separates the magnetite from the tailings, including asbestos, which are then then disposed of at the Tailings Storage Facility. • If removing asbestos cement or other asbestos products then the operator must notify Resources Safety, who confirms that the operator willfollow the Code of Practice and use a licensed asbestos removalist.	
3.	**Findings and recommendations for the Ministerial Advisory Panel**	
	• The working group reviewed the draft report to the Ministerial Advisory Panel, requesting the addition of information from today's meeting regarding the current regulatory process and requirements, as well as those proposed under modernised mines safety legislation. • The group agreed that there was an excessive level of detail and prescription in the national Model WHS Regulations and it is recommended that this should be reduced. • The report will be circulated to working group members out-of-session for comments and endorsement by 15 July 2014. It will then be considered by MAP at their 23 July 2014 meeting.	DMP to amend and distribute draft recommendations report Working group to provide feedback by 15 July 2014.
4.	**Other business**	
	NA	
5.	**Next Meeting**	
	The group agreed that there was no need for further meetings.	

Government of Western Australia
Department of Mines and Petroleum

Asbestos Working Group Report

This report documents the observations and recommendations of the Asbestos Working Group.

Background

The Western Australian Government has committed to overhauling the way safety and health in the resources industry is regulated.

In January 2014, the Minister for Mines and Petroleum established the Ministerial Advisory Panel on Safety Legislation Reform (MAP), comprised of industry, union and government representatives, to provide advice on the development of safety reforms.

In June 2014, MAP established the Asbestos Working Group, to examine the regulation of safety and health relating to asbestos. Minutes and supporting papers from Working Group meetings are published on the DMP website.

Role

The role of the working group was included in the Terms of Reference:

- Review the section of the nationally harmonised work health and safety regulations for asbestos;
- Identify areas of prescription that could be added and/or removed and put into codes or guidance material;
- Review legislation from other jurisdictions, and the Australian Standard on asbestos; and
- Propose provisions, and level of prescription that should be included in the regulations.

Membership

Name:	Job Title:	Representing:
Greg Stagbouer	Principal Consultant Meridio	Australian Drilling Industry Association
David Todd	General Manager of HSEQ Macmahon Group	Chamber of Minerals and Energy of WA
Gary Wood	Secretary CFMEU Mining & Energy Division – WA District	Unions WA
Jennifer Low	Policy Advisor Chamber of Commerce and Industry WA	Chamber of Commerce and Industry WA
Mike Rowe	Inspector of Mines – Health Department of Mines and Petroleum	Department of Mines and Petroleum

Summary of Issues

There are two key issues for the mining resources industry relating to asbestos: the removal of asbestos; and naturally-occurring asbestos.

Removal of asbestos, and asbestos cement products used in construction and pipes at resources industry sites, is less frequently encountered compared to the past.

Naturally-occurring asbestos (and other fibrous minerals) was considered to be of much greater significance, as fibres may be disturbed as a result of mining for other minerals, such as iron ore and nickel, presenting a risk of asbestos-related disease.

Australian regulators treat all fibrous minerals as harmful. This is supported by the national exposure standard for all forms of asbestiform minerals being set at 0.1 fibres per millilitre (f/mL) .

Due to current low exposure levels and a long latency period, health monitoring of employees to determine the effects of asbestos exposure is problematic.

The Working Group agreed that there was an excessive level of detail and prescription in the national Model WHS Regulations, and recommend that this should be reduced.

The Working Group examined the differences between WA and national Acts, Regulations, Codes Of Practice and Guidelines, and found that the proposed new legislation is more comprehensive than the existing Mines Safety and Inspection Regulations and would adequately address all issues associated with management of naturally occurring asbestos on mine sites.

Key Observations and Findings

Current Regulatory Framework

Currently, safety and health related to asbestos in the mining industry is regulated by Resources Safety Division under the *Mines Safety and Inspection Act 1984*.

The national Work Health and Safety Act (WHS Act) has 94 pages on asbestos - mainly related to licensing and removal, and industry feedback indicates that this is overly detailed and prescriptive.

There are two national Codes of Practice: *How to Safely Remove Asbestos* and *How to Manage and Control Asbestos in the Workplace*.

Resources Safety has a Guideline: *Management of Fibrous Minerals in Western Australian Mining Operations*.

The current Mines Safety and Inspection Regulations still refer to outdated National Occupational Health and Safety Commission (NOHSC) material. The regulations have not yet been updated, as it was expected that agreed elements of the national reforms to health and safety legislation would have been implemented by now.

Removal of asbestos (e.g. construction materials, pipes)

For the removal of asbestos and asbestos cement products used in the construction of old buildings or asbestos water pipelines, legislation requires the Principal Employer to notify Resources Safety at DMP. The Principal Employer must then follow the national Code of Practice How to Safely Remove Asbestos, which includes use of licensed asbestos removalists to remove the asbestos.

In the national WHS Regulations, there are over 111 multi-part regulations relating to asbestos, but most of these regulations cover the licensing and training of asbestos removalists. The group considered this to be overly-detailed, prescriptive and of limited relevance to the resources industry, which is mainly affected by naturally-occurring asbestos and other fibrous minerals.

Naturally-occurring asbestos (and other fibrous minerals)

For naturally-occurring asbestos and other fibrous minerals, DMP developed a guideline Management *of fibrous minerals in Western Australian mining operations*, which was designed to complement and align with the national Code of Practice.

Naturally-occurring asbestos areas are well-mapped and all current iron ore and nickel operators are aware of the asbestos issue and have Asbestos Management Plans.

Currently, the Mining Act requires operators to submit a Mining Proposal to DMP, which asks the proponent if they are likely to encounter asbestos in the area being explored/mined.

If the proponent identifies that asbestos is likely to be encountered, they are referred to Resources Safety. Mines inspectors brief them on the requirement to lodge an Asbestos Management Plan for review. If a proponent fails to identify the risk of asbestos, commences exploration and encounters asbestiform minerals, they are required to report it to Resources Safety. The proponent will be required to lodge an Asbestos Management Plan for review.

If an operator wishes to progress from exploration to mining, Resources Safety inspectors cover the requirement for an Asbestos Management Plan in discussions with the operator prior to the commencement of mining.

If the proponent lodges an inadequate Asbestos Management Plan, it is rejected and mining cannot commence until the plan is accepted.

If the proponent commences mining without having an accepted and implemented plan, they may be prosecuted.

A site Asbestos Management Plan is a living document that is updated as the mining operation develops. Resources Safety can verify the Asbestos Management Plan through inspections, audits, reviews, reporting mechanisms, and consultation with Safety and Health Representatives at the mine site.

The Mine Safety and Inspection Regulations 1995 require the mining industry to regularly conduct personal monitoring of employees who may be exposed to atmospheric contaminants, including asbestiform minerals. The results are reported to Resources Safety and recorded on the CONTAM system. The Inspectorate can follow up results above the exposure standard with the company.

With regard to health monitoring for detecting asbestos-related diseases:

- The National Asbestos Exposure Register does not really apply to mining, but DMP recommends companies keep a record of their employees;
- Until January 2013, DMP required health assessments for all WA mine workers. This ceased when studies of the MineHealth database showed that these assessments neither prevented nor detected ill health at an early stage.
- The State mining engineer may still direct that additional health assessments be carried out on employees where required.

The current framework of risk-management plans and Safety Management Systems is sufficient to manage asbestos issues on mine sites. DMP has employed additional inspectors to verify implementation of risk-based documentation submitted by industry.

Proposed Regulatory Framework

The Department of Mines and Petroleum is modernising the mining legislation to move to a more risk-based approach to safety. Legislation will be less prescriptive, with codes of practice containing more detail. Guidelines for industry may be produced, including templates to assist smaller operators in managing their risks. There will be no reference to Australian Standards in the legislation.

Under proposed regulations, operators will be required to submit to Resources Safety a Work Health and Safety Management System (WHSMS), consisting of Principal Hazard Management Plans (PHMPs), Principal Control Plans (PCPs) and an Asbestos Management Plan (where naturally occurring asbestos is present or expected to be encountered). Consultation with workers is required in the preparation of the WHSMS, and the level of detail will vary depending upon the scale and complexity of the mining operation.

Work at a mine cannot proceed without an accepted WHSMS is in place, and this will be reviewed and revised as required.

One of the PHMP's is Air quality, airborne dust and other airborne contaminants, which includes naturally occurring asbestos. Part 10.2 of the regulations Managing Risks includes Control of risk, air monitoring, consultation with workers, information, training and instruction, health assessment and health monitoring.

Trigger Action Response Plans (TARPs) are an integral part of PHMPs, defining the actions required by mine site personnel in response to a deviation from normal mine conditions. A TARP could specify that if monitoring reveals that asbestos fibres, a response plan must be put into effect.

One of the PCP's is a Health Control Plan, which includes consultation, identification of roles and risk identification, assessment, control and evaluation (risk management).One of the specific areas mentioned in the Health Control Plan is asbestos dust causing asbestosis, lung cancer and mesothelioma.

Recommendations:

That the Ministerial Advisory Panel:

1. **Note that the current regulatory framework relating to asbestos should adequately address all issues associated with management of naturally occurring asbestos on mine sites until new legislation is in place. Codes of Practice and guidelines can be updated in the meantime, if required.**
2. **Note that the proposed new regulatory framework regulations will be more comprehensive, requiring operators to submit to Resources Safety a Work Health and Safety Management System (WHSMS). This consists of Principal Hazard Management Plans (PHMPs), Principal Control Plans (PCPs) and an Asbestos Management Plan (where naturally-occurring asbestos is present or expected to be encountered), which must be prepared in consultation with workers. Mining cannot commence without an accepted WHSMS in place.**
3. **Reduce the level of detail and prescription in the national Model WHS Regulations regarding asbestos management and removal.**