



Ministerial Advisory Panel on Safety Legislation Reform

AGENDA

Date:	Wednesday 30 September 2015	Time:	8:30am – 10:30am
Venue:	Fraser Room 4, Fraser Suites - Level 1 10 Adelaide Terrace, East Perth		

Item No.	Item	Who
1.	Welcome and apologies	Chair
2.	Actions from the previous meeting – Attachment 1	Chair
3.	Safety Legislation Reform – progress update – Attachment 2	Simon Ridge
4.	Stakeholder workshops – Attachment 3	Simon Ridge
5.	Globally Harmonised System of Classification and Labelling of Chemicals (GHS) – Attachment 4	Simon Ridge
6.	Transparency – Attachment 5	Simon Ridge
7.	Levies and fees regulations – Attachment 6	Simon Ridge
8.	Other business	Chair
9.	<i>Next Meeting: 25 November 2015, 8:30am – 10:30am</i>	

Information Papers:

1. Actions list
2. Safety Legislation Reform progress update
3. Stakeholder Workshops – MAP feedback
4. Adoption of Globally Harmonised System of Classification and Labelling of Chemicals (GHS)
5. Transparency
6. Levies and fees mock-up regulations



File No: A1375/201301

ACTIONS LIST – Post meeting 29 July 2015

Ministerial Advisory Panel

Active Actions

ACTION ITEM		DUE DATE	STATUS
1.	Meeting 26 March 2014		
	DMP to invite an officer from WorkSafe to join MAP when the discussions on the regulations commence.	TBA	Awaiting update on WHS Green Bill.
2.	Meeting 29 July 2015		
	DMP to advise MAP and MIAC of Government response to Parliamentary Inquiry into mental health impacts of FIFO/DIDO	TBA	Awaiting Government response

Completed Actions

ACTION ITEM		DUE DATE	STATUS
1.	Meeting 25 March 2015		
	NOPSEMA PowerPoint Presentation to be sent to members with the minutes.	27 March 2015	Completed
	"Indicative Structure of Work Health and Safety (Resources) Act and Regulations", handout to be sent to members with the minutes. Members to provide comments on the structure by 30 April.	27 March 2015	Completed
	Send members a copy of the expected implementation timeline for the WHS R legislation.	27 March 2015	Completed
2.	Meeting 27 May 2015		
	Consultation RIS on WHS (Resources) Bill to be circulated to MAP as soon as possible	June 2015	Completed
	MAP to provide comment to David Eyre on the proposed two advisory committees	10 June 2015	Completed
	DMP to provide list of potential workshops to MAP by 12 June 2015.	12 June 2015	Completed
3.	Meeting 29 July 2015		
	DMP and unions to schedule meeting on the WHS (Resources) Bill	17 Aug 2015	Completed

ACTION ITEM		DUE DATE	STATUS
	DMP to send copy of Marsden Jacob presentation to MAP members	17 Aug 2015	Completed
	DMP to obtain NOPSEMA's view on DMP proceeding independently of WorkSafe's 'Green' Bill	17 Aug 2015	Completed
	MAP to provide feedback by 31 Aug 2015 on the proposed WHS regulations workshops, and priorities	31 Aug 2015	Completed



Ministerial Advisory Panel on Safety Legislation Reform

Progress update: 30 September 2015

Regulatory Impact Statement (RIS) – Work Health and Safety (Resources) Bill

The public comment period on the Consultation RIS (C-RIS) for the Work Health and Safety (Resources) Bill ran from 6 July to 14 August 2015. During this period, DMP held several meetings with representatives from industry groups and unions, to address specific queries about the Bill.

On 23 July 2015, before RIS submissions closed, 55 industry representatives attended an open RIS stakeholder forum to discuss changes to the resources legislation.

Non-confidential RIS submissions can be viewed on the [Marsden Jacobs Associates website](#). The main issues raised included:

- *Jurisdiction*: DMP versus WorkSafe, Energy Safety, Department of Transport, NOPSEMA
- *Safety case and mining SMS*: differences, scope and content, ALARP standards
- *Incident reporting*: incident notification versus investigation report; what is meant by 'immediate' notification; definitions, use of independent report, publication of incidents
- *Transparency*: sharing and publication of information
- *Site Senior Executive*: how this will apply to various types of operations (e.g. pipelines)
- *Accommodation*: potential unintended consequences of new provisions
- *Definitions*: clarification of resources facility operator, remote facilities, serious injury/illness, dangerous incident
- *Reasonably practicable*: support/do not support
- *Major hazard facilities classification process*: clarification required
- *Pipeline-specific regulations*
- *Worker competency requirements*
- *Penalties*: proposals for industrial manslaughter legislation and enforceable undertakings
- *Consultation*: on final versions of Bill and regulations
- *WHS Green Bill*: alignment and timing.

The RIS submissions have been analysed by Marsden Jacob Associates and the Decision RIS will be finalised by 2 October 2015, for approval by the Regulatory Gatekeeping Unit. It will then go to the Minister for consideration.

Work Health and Safety (Resources) Bill

Drafting instructions for the WHS (Resources) Bill are finalised, subject to consultation outcomes.

The WHS (Resources) Bill is still on track to go into Parliament in early 2016.

Work Health and Safety (Resources) Regulations

Development of mock-up Work Health and Safety (Resources) Regulations continues. These will be tailored to suit the WA resources industry.

MAP will be provided with copies of the mock-up regulations as they are finalised. Stakeholder workshops on specific topics will commence in November 2015.



Ministerial Advisory Panel

Proposed stakeholder workshops – MAP feedback

Proposed workshops

- **Safety Case** (one day workshop):
 - Safety Case content and application
 - Safety Assessment
 - Major Accident/Incident Event.
 - Emergency Response Plans
 - Event Analysis and Modelling
 - Safety Management System
 - Occupational Safety and Health
 - Performance Standards
 - Facility Description
 - Identify prescriptive requirements from model WHS Regulations, for potential removal
 - Classified plant
 - Authorised persons
- **Facilities** (half day workshop)
 - Classification
 - Notification, incident reporting thresholds
 - Licensing
 - Operator requirements
 - Identify prescriptive requirements from model WHS Regulations, for potential removal
 - Classified plant
 - Authorised persons
- **Mining Safety Management System (SMS) and risk management** (half day workshop)
- **Statutory positions and competencies** (half day workshop)
- **Electrical safety** (half day workshop)
- **Plant, structures and classified plant** (half day workshop)
- **Occupational health** (half day workshop)

MAP feedback:

APGA

APGA's priorities for the WHS (R) regulations workshops include, but are not limited to, the following;

- **Safety case** - the maintenance of the safety case approach is a priority for the pipeline sector. The safety case regime in the Petroleum Pipelines (Management of Safety of Pipeline Operations) Regulations 2010 has gained wide industry acceptance and APGA supports this content as a starting point for the regulatory consultation.
- **Definitions** - APGA members believe there is a strong case for there to be workshops to focus on the key defined terms that will form the basis of the regulations such as:
 - **SSE** - APGA members believe the term Site Senior Executive (SSE) is a concept that requires further clarity. The SSE function as currently proposed may operate well at a major hazard facility or a mine site that is permanently occupied, often with large numbers of personnel and the subject of intense activity in a confined and controlled area. Our members have identified a number of impracticalities with the application of the SSE to a pipeline and associated facilities, which are clearly very different pieces of infrastructure.
 - **Accommodation** - given the remote location of pipeline operations, compressor station sites generally contain accommodation facilities that are used by personnel to reside while working. They contain facilities that are normally associated with accommodation such as kitchens, lounges, bedrooms and exercise facilities. However, it needs to be made clear whether these facilities are to be covered by the regime, particularly when they are being used for non-operational purposes.
- **ALARP** level of risk management - there are a number of methods of demonstrating ALARP that deliver the desired outcome. It is not clear how prescriptive any proposed ALARP regime may be and how this may affect pipeline operations.
- **Incident notifications** - the processes for accident and incident notifications and associated definitions.
- **Consultation and representation** - election of health and safety representatives and obligation to consult on pipeline operations.
- **Publication and sharing of information** - the scope and limitations of this need to be clear and reasonable in order to protect the existing transparency between industry and the department.
- **Electrical Safety** - From the Ministerial Advisory Panel minutes dated 29 July 2015, attachment 3 indicates that Electrical Safety is related to mining however this topic is equally relevant for pipeline operations (as should other identified topics consistent to all sectors).
- **Indicative structure of Work Health and Safety (Resources) Act and regulations** - due to the pipeline infrastructure being uniquely different to that of MHF's and Mine sites; the pipeline sector is keen to have a specific 'sub-chapter' within the Petroleum sector as a means to manage pipeline specific requirements.

DMP Workshops

APGA recommends that the proposed workshops are given sufficient priority; that is the time and frequency required to address each topic. We ask that appropriate subject matter experts are in attendance at these workshops in order to represent the required sectors and achieve the most effective outcome.

Further, a draft or mock up of the regulations should be released to industry prior to workshops being held and the release of draft or mock up regulations will assist in prioritising the workshop order.

APPEA

In addition to proposed topics, could be useful to cover:

- The scope of safety cases and how they can be applied to operations and not just facilities.
- Optimisation of safety case documentation – streamline content; line of sight to critical barriers
- Workforce involvement in safety case development and implementation
- Management of Change – in the field implementation of safety cases relies on effective and appropriate MoC.
- Continuous improvement – how this should be demonstrated

Also want to flag emerging issue around the role of industry alignment around Trusted International Standards. Might lend itself to a presentation as there is some important international oil and gas work going on in this area through World Economic Forum and also ISO Standards work for oil and gas industry with the IOGP.

CME

- Industry considers these workshops should only be convened once relevant draft or 'mock-up' draft guidelines are available for detailed review and discussion on the day. This will ensure the time committed to these forums can be as productive as possible.
- Additionally, CME considers a similar process should be followed as was undertaken for the three previous workshops, where a MAP member was tasked with Chairing the group and MAP members were able to nominate additional (2) representatives to attend.
- In addition to the topics below CME considers a workshop covering issues specific to pipelines should also be considered.
- Of the Mining related topics CME considers a workshop on the SMS and risk management approach should be the first priority. Consideration should be given as to whether these critical topics can be covered in one workshop or whether two sessions are required.
- CME questions the immediate need for additional workshops on electrical safety and occupational health given these topics would also be covered in the risk management discussion.
- CME questions the immediate need for a workshop on Statutory Positions given a workshop on this topic has previously taken place. CME considers for this topic in particular it will be critical to have draft regulations to review as a next step for these discussion.
- In terms of priority for the remaining issues, CME recommends these be driven by the availability of the draft regulations (chapters).

KIC

For the MHFs, suggest the priority would be:

1. Safety Case
2. Facilities

List the Mining/Petroleum & MHF workshops basically in the order that they are listed.



Ministerial Advisory Panel on Safety Legislation Reform 30 September 2015

Globally Harmonised System of Classification and Labelling of Chemicals

Background

The Australian Dangerous Goods (ADG) Code and the Globally Harmonised System of Classification and Labelling of Chemicals (GHS) specify requirements for the classification, labelling and safety data sheets of dangerous goods and hazardous chemicals. Many materials are classified as both a dangerous good and hazardous chemical.

Whilst there are some similarities between the two systems, there are differences.

The ADG Code focusses on the transport and handling of dangerous goods, and is particularly useful for emergency response, where placarding provides information about the type and hazards of dangerous goods on location.

GHS labelling focusses on the WHS aspects of storage and handling of hazardous chemicals.

On 1 January 2017, Safe Work Australia and the majority of occupational safety regulators in Australia will require compliance to GHS exclusively.

The Work Health and Safety (Resources) Bill is to be implemented on the same date and, for consistency with other jurisdictions, the intention is to reference the GHS for classified hazardous chemicals.

Storage and handling regulations under the *Dangerous Goods Safety Act 2004* (DGSA) require compliance with the Australian Dangerous Goods (ADG) Code. Unless amendments are made to those regulations, the implementation of the WHS (R) Bill and GHS will create discrepancies.

Issues

- Commonwealth and State WHS regulators committed to implement GHS exclusively on 1 January 2017.
- There will be conflicting requirements where the ADG and GHS provisions overlap.
- ADG Code is still needed for transport and placard storage, but from a WHS perspective the GHS is preferable as it aligns with occupational safety and health requirements and has been implemented in other States.
- In WA, DMP Dangerous Goods Safety branch regulates licensing and the safe storage, handling and transport of dangerous goods, while WorkSafe covers WHS. Other States have both aspects of dangerous goods within their general industry WHS regulator and legislation.
- Change to be kept to a minimum, avoiding structural changes within agencies.

Recommendation

DMP to update the DGS (storage and handling of non-explosives) regulations 2007 to permit GHS classification and labelling of dangerous goods. This minimises disruption and avoids structural change to agencies, while keeping legislation as simple as possible. This is similar to the arrangements used in Victoria.

- There will be no change to inspector activities or to the structure of agencies involved.
- The ADG Code will apply to transport and placard quantities of dangerous goods.
- The GHS will apply to WHS of hazardous chemicals.
- This requires a few minor changes to DGS (storage and handling of non-explosives) regulations 2007.



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Transparency

DMP policy

The Government and DMP are committed to improving communication and transparency.

Transparency provisions enable publication of information that benefits industry (e.g. shared learnings from incidents) and the community (e.g. greater awareness of industry activity and performance).

Whilst industry has concerns over increased scrutiny of commercially-sensitive information, much of the information is already accessible through the Freedom of Information (FOI) legislation.

The Department is considering two methods for release of information:

1. amend current legal barriers so that FOI principles are prescribed within DMP legislation; or
2. remove legal barriers completely, and create a DMP policy that any information released under legislation will be released in line with FOI principles.

The Department is considering whether FOI principles should be incorporated within section 271B of the Work Health and Safety (Resources) Bill or whether the provision should remain in its current form, i.e. anything not listed in the WHS (R) Bill or regulations cannot be published.

By expressly incorporating FOI principles of confidentiality, the provision would be amended to enable the release of all information unless it can be proven that it should not be released, e.g. technical, financial, or confidential. Different classifications of information would specify what can be released. The Minister would have the authority to classify information as permanently confidential.

Work Health and Safety (Resources) Bill

271A. Sharing of information with corresponding regulator

The proposed WHS (R) Bill introduces the concept of “corresponding regulator”, and section 271A allows information to be shared with other OHS regulators. This is based on the model WHS Act.

For example, where an incident occurs that crosses multiple jurisdictions (e.g. DMP and WorkSafe) important information and learnings can be shared between regulators during the investigation.

Section 271A differs to section 271B in that information shared between regulators may not necessarily be published.

271B. Publication of information by regulator

Section 271B of the WHS (R) Bill allows for the publication of information by the regulator. This is based on a similar provision used in New South Wales.

In its current form, section 271B allows publication of WHS incidents, investigations, enforcement actions, convictions, and any other matter prescribed by regulations. In addition, DMP has included a provision regarding the release of radiation management plans, as this is a matter of specific community interest.

With regard to incident information, the Department currently ensures anonymity when publishing safety alerts related to incidents.

Similar to current mine safety legislation, section 271B specifies the types of information that are releasable to the public and makes a presumption that anything which is not listed is not releasable.

This is contrary to the approach taken in other DMP legislation, which presumes that information should be releasable unless legislation expressly states that it is not.

Stakeholder feedback

In submissions to the Regulatory Impact Statement on the Bill, industry stakeholders requested:

- further clarity on the intent of provisions providing DMP with the power to release information relating to safety incidents
- removal of specific reference to the publication of radiation management plans, saying that it should be treated no differently to any other resources operation
- publication of information based on an assessment of the information being in the public interest and appropriately managing commercially-sensitive information
- sharing and publication of information be considered in conjunction with the development of Mining Amendment Regulations for transparency being undertaken within the DMP Environment Division.

Actions

MAP to provide comment on DMP's transparency policy. .



File No: A1375/201301

MEETING MINUTES:

Ministerial Advisory Panel on Safety Legislation Reform

Date:	Wednesday, 30 September 2015	Time:	8:30am to 10:30am
Venue:	Fraser Suites, Fraser Room 4 – Level 1 – 10 Adelaide Terrace, East Perth		

Present

Mr Ian Fletcher	Independent Chairperson
Mr Rick Armstrong	Principal Drilling Coordinator, Rio Tinto Iron Ore (representing Australian Drilling Industry Association - ADIA)
Mr Simon Bennison	Chief Executive Officer, Association of Mining and Exploration Companies (AMEC)
Mr Anthony Cribb	General Manager Corporate Services/Company Secretary, DBP (representing Australian Pipelines and Gas Association - APGA)
Mr Bob Gregorovich	CSBP, representing Kwinana Industries Council (KIC) (<i>proxy for Chris Oughton</i>)
Mr Richard Kern	Regional Manager Asia Pacific Newmont (representing Chamber of Minerals and Energy WA – CMEWA)
Mr Glenn McLaren	State Organiser, OHS Advisor, Australian Manufacturing Workers' Union (AMWU)
Mr Paul Moss	Industrial Relations and Safety Policy Manager, Chamber of Commerce and Industry WA (CCI WA)
Mr Stephen Price	Secretary, Australian Workers Union (AWU)
Ms Miranda Jane Taylor	Director – Environment, Safety & Productivity, Australian Petroleum Production and Exploration Association (APPEA)
Mr Michael Tooma	Partner, Norton Rose Fulbright - Independent Expert (<i>teleconference</i>)
Mr Gary Wood	Secretary, Construction Forestry Mining and Energy Union (CFMEU) Mining and Energy Division WA District
Mr Nick Zovko	Regulatory Policy Manager, Plastics and Chemicals Industries Association (PACIA) (<i>teleconference</i>)
Mr Simon Ridge	Executive Director, Resources Safety Division, Department of Mines and Petroleum (DMP)
Dr Neil Woodward	A/Director Mines Safety, Resources Safety Division, DMP (<i>proxy for Mr Andrew Chaplyn</i>)
Mr Lew Pritchard	General Manager Business Development, DMP
Mr David Eyre	A/Principal Policy Officer, DMP
Mr Peter Payne	A/Senior Policy Officer, DMP

Apologies

Ms Jennifer Low	Policy Advisor, Chamber of Commerce and Industry WA (CCI WA) (<i>Paul Moss attended as proxy</i>)
Mr Chris Oughton	Director, Kwinana Industries Council (KIC) (<i>Bob Gregorovich attended as proxy</i>)
Mr Kevin Wolfe	Business Development Manager, Monadelphous (representing Australian Pipelines and Gas Association - APGA) (<i>Anthony Cribb attended as proxy</i>)
Mr Andrew Chaplyn	State Mining Engineer and Director Mines Safety, Resources Safety Division, DMP (<i>Neil Woodward attended as proxy</i>)
Mr Ross Stidolph	Director Dangerous Goods and Petroleum Safety, DMP

Agenda items

Item	Topic	Action
1.	Welcome and apologies	
	<ul style="list-style-type: none">The Chair welcomed everyone and introduced the proxies.Minutes from the previous meeting were confirmed out-of-session and uploaded to the DMP website.	

Item	Topic	Action
2.	Actions from the previous meeting (<i>Attachment 1</i>)	
	<p>Carried forward: DMP to invite an officer from WorkSafe to join MAP when the discussions on the regulations commence.</p> <p>Awaiting an update from Minister Mischin on status of the WHS Green Bill.</p> <p>Carried forward: DMP to advise MAP and MIAC of Government response to Parliamentary Inquiry into mental health impacts of FIFO/DIDO</p> <p>The Government response to report was due on 18 September 2015, but nothing has yet been communicated. MIAC will deal with the recommendations.</p> <p>DMP and unions to schedule meeting on the WHS (Resources) Bill</p> <p>Completed – meeting held 11 August 2015.</p> <p>DMP to send copy of Marsden Jacob presentation to MAP members</p> <p>Completed – presentation emailed to members on 17 August 2015</p> <p>DMP to obtain NOPSEMA's view on DMP proceeding independently of WorkSafe's 'Green' Bill</p> <p>Completed – feedback emailed to members on 17 August 2015. NOPSEMA advised DMP that there were no substantive issues. They will work with any arrangements that are put in place.</p> <p>MAP to provide feedback by 31 Aug 2015 on the proposed WHS regulations workshops, indicating priorities.</p> <p>Completed – to be discussed as agenda item 4.</p>	
3.	Safety Legislation Reform Update (<i>Attachment 2</i>)	
	<p>Regulatory Impact Statement (RIS) on Work Health and Safety (Resources) Bill</p> <p>Marsden Jacob Associates will finalise the Decision RIS by 2 October 2015. It will then go to the Regulatory Gatekeeping Unit for a two-week assessment. If approved, it will go to the Minister for approval. A decision on how to proceed is expected by late November 2015.</p> <p>Attachment 2 includes a list of the main issues raised in the RIS submissions and during the forum. Stakeholder feedback will be considered in preparing the Decision RIS and the legislation. Twenty-four written submissions were received, and approval for the WHS (Resources) Bill can be summarised as follows:</p> <ul style="list-style-type: none"> • <i>Support (including conditional support):</i> 16 • <i>Oppose:</i> 2 (individuals) • <i>No comment:</i> 6 <p>DMP tabled a document containing extracts from Marsden Jacob Associates' draft Decision RIS document, including a benefits threshold analysis. As the RIS has not yet been finalised or submitted to the Minister, this paper is confidential and cannot be circulated.</p> <p>While respondents to the RIS were unable to supply detailed quantification of expected costs, given that much of the detail is in the regulations, the benefits threshold analysis indicated that a net neutral or positive impact from the reforms is highly likely to be achieved.</p> <p>Work Health and Safety (Resources) Bill & Regulations:</p> <p>The WHS (Resources) Bill is on track to go into Parliament in early 2016.</p> <p>DMP will establish a team to provide support to small operators to implement the reforms.</p>	MAP to note

Item	Topic	Action
4.	Stakeholder Workshops (Attachment 3)	
	<p>Attachment 3 includes DMP's suggested list of topics that require additional consultation for the regulations, and feedback from MAP members. Following discussion by the Panel, DMP's proposed process for developing the regulations is:</p> <ol style="list-style-type: none"> 1. The first set of regulations, the Work Health and Safety (Resources) (Levies and Fees) Regulations 2016, together with a policy discussion paper, to be circulated to MAP members. 2. MAP to provide feedback to DMP by 30 October 2015. <p>Workshops will follow.</p> <ol style="list-style-type: none"> 1. Mock-up regulations provided to MAP in batches, together with a policy discussion paper, explaining key issues and changes, implications, definitions, how it fits within the WHS (Resources) legislative framework, as well as other legislation (e.g. dangerous goods safety legislation reforms). 2. DMP invites MAP to nominate representatives to attend a workshop if required. They should include frontline operational staff and perhaps subject matter experts. 3. DMP hosts workshop using an independent facilitator. 4. Workshop feedback is used by DMP to amend the mock-up regulations. <p>The full set of mock-up regulations will be provided as part of the 2016 RIS consultation process.</p> <p>The Panel suggested that the petroleum/MHF safety case and mining SMS workshops could be held back-to-back, so that the relevant people can attend both risk-management workshops, if necessary.</p> <p>The Panel did not discuss any of the additional workshop topics proposed by some MAP members. <i>[It is possible that these topics may be covered as part of the listed workshops].</i></p>	<p>DMP to provide a paper on the proposed process for MAP to comment</p>
5.	Globally Harmonised System of Classification & Labelling of Chemicals (GHS) (Att. 4)	
	<p>The national implementation of GHS, scheduled for 1 January 2017, introduced some issues for the development of the WHS (Resources) Bill (see attachment 4).</p> <p>DMP proposes that the Dangerous Goods Safety (Storage and Handling of Non-explosives) Regulations 2007 be amended to permit GHS classification and labelling of dangerous goods. This minimises disruption by avoiding structural change to agencies, while keeping legislation as simple as possible. DMP is also checking if GHS can be included within regulations amendments already underway for the dangerous goods safety reforms.</p> <p>PACIA noted that DMP's proposed approach differs from the national model WHS Act, and is more aligned with Victoria. Victoria uses the dangerous goods provisions but also includes environmental hazards for storage and handling. Nationally, no other jurisdiction does that, because the GHS provisions in the model WHS Act do not include class 9 environmental hazards.</p> <p>PACIA requested that DMP ensure that the proposed changes to the DGS Storage and Handling Regulations harmonise or align with the WHS (Resources) Bill, the national model WHS Act and WorkSafe's Green Bill.</p> <p>DMP commented that WA already has a different arrangement with the dangerous goods safety legislation being separate to the OSH Act.</p> <p>The ADG Code and GHS have some commonalities.</p>	<p>DMP to discuss GHS with PACIA</p>

Item	Topic	Action
6.	Transparency (<i>Attachment 5</i>)	
	<p>Transparency was one of the main topics raised during the RIS consultation, as the WHS (Resources) Bill includes provisions, ss. 271A and 271B, related to this topic.</p> <p>Section 271A, while not directly about transparency, covers sharing of information between regulators, which may be necessary for investigations involving multiple jurisdictions. This provision does not mean that DMP or other regulators can publish the shared information.</p> <p>Section 271B covers the publication of information by DMP. This provision allows for publication of incidents, investigations, enforcement actions, convictions, and any other matter prescribed by regulations. It also includes the release of radiation management plans.</p> <p>Industry has concerns about transparency, due to increased scrutiny of information, particularly if it is considered commercially sensitive. However, much of this information is already accessible through FOI legislation. The Office of the Information Commissioner has identified that 99% of information requested through the FOI process is releasable.</p> <p>Rather than forcing people to go through the FOI process, the Government has committed to improving transparency. DMP is therefore considering amending legislation to include FOI principles, enabling the release of information, <i>unless</i> the legislation expressly states a specific type of information should not be published. This is similar to other recently drafted DMP legislation.</p> <p>APPEA noted that transparency starts with industry engaging with stakeholders and making information available, and not just relying on the regulator to publish. The aim should also be to provide information in order to improve industry performance. The concern is whether individual workers would be exposed to prosecution, thereby providing disincentives to report accurately.</p> <p>The Panel discussed publication of information that is provided <i>voluntarily</i>, versus <i>compulsorily</i> (e.g. required by legislation). DMP indicated that publication should be based on what information is in the public interest, against genuine commercially-sensitive/intellectual property information.</p> <p>Michael Tooma commented that, if information is provided voluntarily, there is an assumption that it may be published. However, if information is provided under compulsion, there is an assumption that it will not be published for a purpose other than intended, unless permission is obtained from the provider. If this assumption is to no longer apply, industry may be more protective about what information they disclose to the regulator.</p> <p>The Panel agreed that a benefit from sharing certain types of information may be to prevent future incidents. However, for other types of transparency, providing information depends on what is being released and why. It would be useful for the Panel to be aware of the type of information that DMP would like to release.</p>	<p>DMP to provide examples of the type of information they seek to publish. MAP to provide feedback.</p>
7.	Levies and fees regulations (<i>Attachment 6</i>)	
	<p>The first set of mock-up regulations being finalised are related to levies and fees, the Work Health and Safety (Resources) (Levies and Fees) Regulations 2016. These regulations are consolidating the current levies and fees provisions, and using common provisions where appropriate. (See item 4)</p> <p>These regulations were not ready in time for this MAP meeting, but will be circulated to MAP members as soon as possible.</p>	<p>DMP to send mock-up levy regulations and policy document</p>

Item	Topic	Action
8.	Other business	
	<ul style="list-style-type: none"> On 9 September 2015, CME released the <i>Blueprint for Mental Health and Wellbeing</i>, based on work by the Mineral Council of Australia: https://www.cmewa.com/policy-and-publications/policy-areas/people-and-communities/preview?path=Mental-Health-Blueprint.pdf. The Blueprint provides a framework for promoting wellbeing of the workforce as well as reducing the risks and impacts of mental illness, and recommends evidenced-based strategies that can be applied at company and site level. Dangerous Goods Safety Act statutory review is underway and amendments to the legislation are being worked on. 	MAP members to note
9.	Next meeting	
	The next meeting is Wednesday 25 November 2015, 8:30am – 10:30am.	

Western Australia

**Work Health and Safety
(Resources) (Levies and Fees)
Regulations 2016**

Western Australia

Work Health and Safety (Resources) (Levies and Fees) Regulations 2016

Contents

Part 1 — Preliminary

1. Citation
2. Commencement
3. Terms used

Part 2 — Safety levies

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5. Diving safety management system levy (DSMS)
6. Mining safety levy
7. Liability for payment of the levy

Division 2 — Levy period and levy amount

8. Levy period
9. Appointment of assessment officer by CEO
10. Levy amount

Part 3 — Assessment and reassessment of safety levies

Division 1 — Assessment

11. Assessment of safety levy
12. Notice of assessment
13. Assessment officer may make reassessment
14. Notice of reassessment

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- 15. When levy becomes due and payable
- 16. Penalty for non-payment of safety levy
- 17. Recovery of safety levy and penalty amount

Part 4 — Objections and review

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- 19. Objection
- 20. Form of objection
- 21. Time for lodging objection
- 22. Consideration and determination of objection
- 23. Notice of adjusted safety levy following objection
- 24. Notice of withdrawal of safety levy following objection
- 25. Liability to pay not affected by objection
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Part 5 — Investigation and enforcement

Division 1 – Authorised persons

- 27. Appointment of authorised persons
- 28. CEO has powers of authorised person
- 29. Identity cards
- 30. Production or display of identity card

Division 2 – Investigations

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- 32. Compliance with requirement of authorised person
- 33. ObstructionError! Bookmark not defined.

Part 6 — Miscellaneous

- 34. False or misleading information
- 35. Incriminating information
- 36. Protection from liability
- 37. Confidentiality

Part 7 — Other matters

- 38. Petroleum and Diving Safety Levies Account
- 39. Mines Safety Account

Part 8 — Record keeping and provision of information

- 40. Records in relation to workers
- 41. Quarterly report in relation to workers

Part 9 — Major Hazard Facilities Licence Fees

- 42. Safety case fees for major hazard facilities
- 43. Annual operation fees for major hazard facilities

Appendix 1 – Levy amount

Schedule 1 – Petroleum and Diving Operations

Schedule 2 – Mines

- 1.1 Levy Amount
- 1.2 Levy imposed

Appendix 2 – Classification of safety system

Classification of safety system for petroleum and diving operations

Appendix 3 – Complexity ratings

Appendix 4 — Major Hazard Facility Fees

- 4.1 Classes of major hazard facility for purposes of fees
- 4.2 Safety case fees for major hazard facilities
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**Work Health and Safety (Resources) (Levies and Fees)
Regulations 2016**

Part 1 — Preliminary

1. Citation

These regulations are the *Work Health and Safety (Resources) (Levies and Fees) Regulations 2016*.

2. Commencement

These Regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the Regulations — on a day after that day.

3. Terms used

In these Regulations, unless the contrary intention appears —

assessment means an assessment of an amount of safety levy under regulation 11;

assessment notice means —

- (a) a notice given under regulation 12 or
- (b) a notice of reassessment given in accordance with the regulation 14;

assessment officer means a person appointed by the CEO;

authorised person means a departmental officer appointed as an authorised person under regulation 27;

CEO means the chief executive officer of the department;

class means a class listed in the Table in Appendix 2;

classification, in relation to a safety system, means the classification determined for the safety system;

complexity rating means —

- (a) for a class of safety system other than a facility safety case — the number specified opposite the class in the second column of the Table in Appendix 3;
- (b) for a class of facility safety case — the number specified opposite the class in the third column of the Table in Appendix 3;

department means the department of the Public Service principally assisting in the administration of these Regulations;

departmental officer means a public service officer (as defined in the Public Sector Management Act 1994 section 3(1)) in the department;

levy period means a period prescribed as the period in respect of which a safety levy is payable;

levy amount means the amount of safety levy payable;

major hazard facility has the meaning given in the *Work Health and Safety (Resources) Act 2016*;

mining operation has the meaning given in the *Work Health and Safety (Resources) Act 2016*;

notice means —

- (a) a notice of assessment issued under regulation 12; or
- (b) a notice of reassessment issued under regulation 14;

objection means an objection under regulation 19;

penalty amount means an amount payable under regulation 16;

petroleum facility for the purpose of these regulations means —

- (a) an offshore petroleum facility as defined in the *Work Health and Safety (Resources) Act 2016*; or
- (b) onshore petroleum facility as defined in the *Work Health and Safety (Resources) Act 2016*; or
- (c) geothermal energy facility as defined in the *Work Health and Safety (Resources) Act 2016*; or
- (d) greenhouse gas facility as defined in the *Work Health and Safety (Resources) Act 2016*;

petroleum operation for the purpose of these regulations means —

- (a) a petroleum operation as defined in the *Work Health and Safety (Resources) Act 2016*; or
- (b) a geothermal energy operation as defined in the *Work Health and Safety (Resources) Act 2016*; or
- (c) a greenhouse gas storage operation as defined in the *Work Health and Safety (Resources) Act 2016*;

petroleum operator for the purpose of these regulations means —

- (a) a petroleum operator as defined in the *Work Health and Safety (Resources) Act 2016*; or
- (b) a geothermal energy operator as defined in the *Work Health and Safety (Resources) Act 2016*; or
- (c) a greenhouse gas storage operator as defined in the *Work Health and Safety (Resources) Act 2016*;

port authority has the meaning given in the *Port Authorities Act 1999* section 3(1);

reassessment means a reassessment of an amount of safety levy in accordance with these regulations;

record means any document or record of information, irrespective of how the information is recorded or stored or able to be recovered and includes —

- (a) anything from which images, sounds or writings can be reproduced, with or without the aid of anything else; and
- (b) anything on which information is recorded or stored, whether electronically, magnetically, mechanically or by some other means;

safety levy means —

- (a) the petroleum safety case levy; or
- (b) the geothermal energy safety case levy; or
- (c) the greenhouse gas storage safety case levy; or
- (d) the diving safety management system levy; or
- (e) mining levy;

safety system means —

- (a) a safety case for a petroleum operation; or
- (b) a safety case for a geothermal energy operation; or
- (c) a safety case for a greenhouse gas storage operation; or
- (d) a diving safety management system;

worker means an individual who carries out work at a mine in the course of mining operations (whether under a contract of employment, a contract for services or other arrangement) but excludes a worker at mining operations carried on by a port authority at its port.

Part 2 — Safety levies

Division 1 — Safety levies

4. Petroleum safety case levy

If, for the whole or a part of a levy period, there is a safety case in force for a petroleum operation in relation to a petroleum facility a levy is payable in respect of the safety case.

5. Diving safety management system levy (DSMS)

If, for the whole or a part of a levy period, there is an accepted DSMS, a levy is payable in respect of the accepted DSMS.

6. Mining safety levy

A levy is imposed in respect of a mine for each levy period in which the number of assessed hours exceeds 5 000.

7. Liability for payment of the levy

The person liable to pay the levy in respect of —

(1) Petroleum and diving operations —

- (a) the petroleum operator in relation to a safety case in force for a petroleum operation;
- (b) the diving contractor in relation to an accepted DSMS to whom the accepted DSMS relates.

(2) Mines —

- (a) the mine operator at the mine at the end of the levy period; or
- (b) if there is no mine operator at the mine at the end of the levy period, the person who was the last operator.

Division 2 — Levy period and levy amount

8. Levy period

The following periods are the period in respect of which a safety levy is payable —

- (a) the period of 3 months beginning on 1 January each year;
- (b) the period of 3 months beginning on 1 April each year;
- (c) the period of 3 months beginning on 1 July each year;
- (d) the period of 3 months beginning on 1 October each year.

9. Appointment of assessment officer by CEO

The levy must be calculated by the CEO or a person appointed by the CEO for the purpose. (the assessment officer)

10. Levy amount

A levy is imposed for each levy period as follows —

- (a) Petroleum and diving operations

The assessment officer should calculate the levy amount for each levy period in accordance with Schedule 1 in Appendix 1, Appendix 2 and Appendix 3.

For the purposes of these regulations the classes of safety system are the classes listed in the Table in Appendix 3.

- (b) Petroleum and diving operations

The assessment officer should calculate the levy amount for each levy period in accordance with Schedule 2 of Appendix 1.

Part 3 — Assessment and reassessment of safety levies

Division 1 — Assessment

11. Assessment of safety levy

- (1) The assessment officer must —
 - (a) assess the amount of safety levy that is payable; and
 - (b) give a notice to each of the persons liable to pay a safety levy.
- (2) The assessment officer may make an assessment on the basis of information obtained or provided under these Regulations and the *Work Health and Safety (Resources) Act 2016*.
- (3) Subsection (2) does not limit the material to which the assessment officer can have regard when making an assessment.
- (4) The day referred to in subregulation (1)(b)(ii) must not be earlier than 30 days after the day specified in the notice of assessment as the day on which the notice was issued.

12. Notice of assessment

The notice of assessment must specify the following —

- (a) the day on which the notice was issued; and
- (b) the amount of levy payable; and
- (c) the day on which the levy is payable.

13. Assessment officer may make reassessment

- (1) The assessment officer may reassess a levy amount if the assessment officer considers that —
 - (a) there has been an error in the assessment of the levy amount (the original assessment); or
 - (b) there has been an error in an earlier reassessment of the levy amount; or
 - (c) it is otherwise appropriate to do so.
- (2) A reassessment may increase or decrease the levy amount or determine that the levy amount is to remain unchanged.

- (3) A reassessment may be made whether or not the levy amount or any part of it has been paid in relation to the original assessment or any earlier reassessment.
- (4) A reassessment cannot be made more than 2 years after the original assessment was made.

14. Notice of reassessment

- (1) If, on a reassessment, the levy amount is increased or decreased the assessment officer must give a notice of reassessment to the person liable to pay the safety levy.
- (2) The notice of reassessment must specify the following —
 - (a) the day on which the notice was issued;
 - (b) the levy amount as reassessed;
 - (c) if the levy amount is increased —
 - (i) any amount of safety levy payable under the original assessment, or any earlier reassessment, that is unpaid; and
 - (ii) any additional amount of safety levy payable as a consequence of the reassessment and the day on which that amount is payable; and
 - (iii) any penalty amount that is owing;
 - (d) if the levy amount is decreased —
 - (i) any amount of safety levy payable under the original assessment, or any earlier reassessment, that is unpaid (after taking into account the reassessment); and
 - (ii) the amount of any refund; and
 - (iii) any penalty amount that is owing (after taking into account the reassessment);
- (3) The day referred to in subregulation (2)(c)(ii) must not be earlier than 30 days after the day specified in the notice of reassessment as the day on which the notice was issued.
- (4) If an amount of safety levy in excess of the amount referred to in subregulation (2)(b) has been paid by a person, the reassessment officer must cause —
 - (a) the amount of the excess; and

- (b) any penalty amount paid in relation to the amount of the excess, to be refunded to the person.

Division 2 — Payment and recovery

15. When levy becomes due and payable

- (1) An amount of levy becomes due and payable on the day specified in the notice issued in respect of that amount as the day on which the levy is payable (the *due date*).
- (2) A levy is payable to the State.

16. Penalty for non-payment of safety levy

If an amount of safety levy remains unpaid after the day on which it becomes due and payable, the person liable to pay the safety levy is liable to pay to the **State**, by way of penalty, in addition to the amount of levy, an amount equal to 20% per annum (pro rata) of the amount of the levy outstanding.

17. Recovery of safety levy and penalty amount

The following amounts may be recovered by the State in a court of competent jurisdiction as debts due to the State —

- (a) an amount of safety levy that remains unpaid after the day on which it becomes due and payable;
- (b) a penalty amount that remains unpaid.

Part 4 — Objections and review

18. Term used: reviewer

In this Part —

reviewer means the CEO or a departmental officer authorised in writing by the CEO to perform the functions of a reviewer under this Part. (the reviewing officer)

19. Objection

A person may object to an assessment notice given to the person —

- (a) on the ground that the person is not liable to pay the safety levy to which the notice relates; or
- (b) on the ground that there is an error in the assessment or reassessment of the amount of safety levy payable.

20. Form of objection

An objection must be made to the CEO and must —

- (a) be in writing; and
- (b) identify the person making the objection; and
- (c) attach a copy of the notice relating to the assessment or reassessment the subject of the objection; and
- (d) give details of the grounds of the objection.

21. Time for lodging objection

An objection must be served on the CEO within 28 days after the date the notice was served.

22. Consideration and determination of objection

- (1) The reviewer must consider and determine an objection within 28 days after the day on which the objection was made.
- (2) In determining an objection, the reviewer may —
 - (a) decide to increase or decrease the levy amount; or
 - (b) decide that the levy amount is to remain unchanged; or

- (c) decide that the person to whom the assessment notice was given is not liable to pay the safety levy to which it relates.
- (3) After making a decision on an objection, the reviewer must give to the person making the objection written notice of the reviewer's decision and a statement of the reasons for the decision.

23. Notice of adjusted safety levy following objection

- (1) This regulation applies if the reviewer's decision on an objection is to increase or decrease the levy amount.
- (2) The reviewer must —
 - (a) determine —
 - (i) the levy amount; and
 - (ii) any penalty amount; and
 - (b) determine the amount that is owing or is to be refunded having regard to —
 - (i) any amount of safety levy already paid in relation to an assessment or reassessment; and
 - (ii) any penalty amount already paid; and
 - (c) give a written notice of adjustment to the person who is liable to pay the safety levy.
- (3) The notice of adjustment must specify the following —
 - (a) the day on which the notice was issued;
 - (b) the levy amount;
 - (c) if the levy amount is increased —
 - (i) any amount of safety levy payable under the original assessment, or any earlier reassessment, that is unpaid; and
 - (ii) any additional amount of safety levy payable as a consequence of the reassessment and the day on which that amount is payable; and
 - (iii) any penalty amount that is owing;
 - (d) if the levy amount is decreased —
 - (i) any amount of safety levy payable under the original assessment, or any earlier reassessment, that is unpaid (after taking into account the reassessment; and

- (ii) the amount of any refund; and
 - (iii) any penalty amount that is owing (after taking into account the reassessment).
- (4) The day referred to in subregulation (3)(c)(ii) must not be earlier than 30 days after the day specified in the notice of adjustment as the day on which the notice was issued.
- (5) If an amount of safety levy in excess of the amount referred to in subregulation (3)(b) has been paid by a person, the reviewer must cause —
 - (a) the amount of the excess; and
 - (b) any penalty amount paid in relation to the amount of the excess, to be refunded to the person.

24. Notice of withdrawal of safety levy following objection

- (1) This regulation applies if the reviewer's decision on an objection is that the person to whom the assessment notice was given is not liable to pay the safety levy to which the notice relates.
- (2) The reviewer must —
 - (a) give to the person who would have been liable to pay the levy a written notice stating that the assessment notice is withdrawn; and
 - (b) cause to be refunded to the person —
 - (i) any amount of safety levy paid by the person in relation to the assessment or reassessment; and
 - (ii) any penalty amount paid in relation to the assessment or reassessment.

25. Liability to pay not affected by objection

A person's liability to pay an amount of safety levy, or a penalty amount, is not affected by the making of an objection.

26. Review of decision on objection

- (1) A person who is dissatisfied with a decision of the reviewer on an objection may apply to the State Administrative Tribunal for a review of the decision.
- (2) An application for the review of a decision must be made within 42 days after the day on which notice of the decision is given.

- (3) The State Administrative Tribunal may extend the period referred to in subregulation (2), before or after it has expired, if the applicant shows that there are reasonable grounds for doing so.

Part 5 — Investigation and enforcement

Division 1 – Authorised persons

27. Appointment of authorised persons

The CEO may, in writing, appoint a departmental officer to be an authorised person for the purpose of investigating and enforcing compliance with these regulations.

28. CEO has powers of authorised person

In addition to performing the functions conferred on the CEO under these regulations, the CEO may exercise the powers, and perform the functions, of an authorised person.

29. Identity cards

- (1) The CEO is to issue an identity card to each authorised person.
- (2) An identity card must contain —
 - (a) the authorised person's name; and
 - (b) a statement to the effect that the person identified by the card is an authorised person for the purpose of these regulations; and
 - (c) a photograph of the person.
- (3) A person must, within 14 days of ceasing to be an authorised person, return the person's identity card to the CEO unless the person has a reasonable excuse.
Penalty: a fine of \$5 000.
- (4) An authorised person must carry his or her identity card at all times when exercising powers or performing functions as an authorised person.

30. Production or display of identity card

- (1) An authorised person may exercise a power in relation to another person only if —
 - (a) the authorised person first produces the authorised person's identity card for the other person's inspection; or
 - (b) the authorised person has the identity card displayed so it is clearly visible to the other person.

- (2) However, if for any reason it is not practicable to comply with subregulation (1), the authorised person must produce the identity card for inspection by the other person at the first reasonable opportunity.

Division 2 – Investigations

31. Investigation powers of authorised persons

- (1) In this regulation —
investigation purposes means purposes connected with investigating and enforcing compliance with these regulations, including the following purposes —
 - (a) obtaining information relevant to determining an amount payable under these regulations;
 - (b) auditing records required to be kept under these regulations;
 - (c) obtaining evidence of a suspected offence under these regulations.
- (2) For investigation purposes, an authorised person may do any or all of the following —
 - (a) during ordinary business hours enter, inspect and examine any place and examine anything at the place (but must do so in such manner as not unnecessarily to impede or obstruct the working of the place);
 - (b) when entering a place, take with the authorised person such equipment and materials as the authorised person considers appropriate;
 - (c) conduct such examination and inquiry as the authorised person considers is necessary;
 - (d) provide information to any person;
 - (e) take possession of any document or thing the authorised person considers relevant for further examination or for use as evidence;
 - (f) require the production of, examine, and take copies of or extracts from, any document the authorised person considers relevant;
 - (g) in accordance with subregulations (3) and (4), interview any person who the authorised person has reasonable grounds to believe is able to provide relevant information;
 - (h) require the attendance of any person for an interview under paragraph (g);

- (i) require any person who the authorised person interviews under paragraph (g) to answer any question put to the person and, if the authorised person considers it appropriate, to verify any such answer by statutory declaration;
 - (j) require any person to state his or her name and address;
 - (k) require any person at a place to give such assistance to the authorised person as the authorised person considers necessary for the performance of the authorised person's functions under this Part.
- (3) An interview referred to in subregulation (2)(g) must be conducted in private if —
 - (a) the authorised person considers that to be appropriate; or
 - (b) the person to be interviewed so requests, but this regulation does not limit the operation of subregulation (5).
- (4) Subregulation (3) may be invoked during an interview by —
 - (a) the authorised person; or
 - (b) the person being interviewed, in which case that subregulation applies to the remainder of the interview.
- (5) In exercising any power under this regulation, an authorised person may be accompanied by any other person whose assistance the authorised person considers necessary, and that person may do such things as are necessary to assist the authorised person in the performance of his or her functions, and anything so done is deemed to have been done by the authorised person.
- (6) Where an authorised person intends to enter, inspect and examine a place under subregulation (2)(a), the authorised person must, where practicable, give notice of his or her intention to do so to a person apparently in a position of authority at the place.

32. Compliance with requirement of authorised person

A person must not without reasonable excuse contravene a requirement of an authorised person under this Part.

Penalty:

- (a) for an individual — a fine of \$5 000;
- (b) for a body corporate — a fine of \$25 000.

33. Obstruction

A person must not hinder or obstruct an authorised person in the performance of functions under this Part.

Penalty:

- (a) for an individual — a fine of \$5 000;
- (b) for a body corporate — a fine of \$25 000.

Part 6 — Miscellaneous

34. False or misleading information

- (1) A person must not, in compliance or purported compliance with a direction or a requirement of an authorised person or any other requirement under these Regulations, do any of the things set out in subregulation (2).

Penalty: a fine of \$20 000.

- (2) The things to which subregulation (1) applies are —

- (a) making a statement that the person knows is false or misleading in a material particular; or
- (b) making a statement that is false or misleading in a material particular, with reckless disregard as to whether or not the statement is false or misleading in a material particular; or
- (c) providing, or causing to be provided, information that the person knows is false or misleading in a material particular; or
- (d) providing, or causing to be provided, information that is false or misleading in a material particular, with reckless disregard as to whether or not the information is false or misleading in a material

Penalty:

- (a) for an individual — a fine of \$5 000;
- (b) for a body corporate — a fine of \$25 000.

35. Incriminating information

- (1) An individual is not excused from giving information, answering a question or producing a record when directed to do so on the ground that the information, answer to the question, or production of the record, might tend to incriminate the individual or make the individual liable to a penalty.

- (2) However —

- (a) the information or answer given or record produced; or
- (b) giving the information, answering the question or producing the record; or
- (c) any information, document or thing obtained as a direct or indirect consequence of giving the information, answering the question or producing the record;

is not admissible in evidence against the individual —

- (d) in any civil proceedings; or
- (e) in any criminal proceedings other than proceedings for perjury.

36. Protection from liability

- (1) An action in tort does not lie against a person for anything that the person has done, in good faith, in the performance or purported performance of a function under these regulations.
- (2) The protection given by subsection (1) applies even though the thing done as described in that subsection may have been capable of being done whether or not these regulations had been enacted.
- (3) Despite subsection (1), the State is not relieved of any liability that it might have for another person having done anything as described in that subregulation.
- (4) In this section a reference to the doing of anything includes a reference to the omission to do anything.

37. Confidentiality

A person who is or has been engaged in the performance of functions under these regulations must not, directly or indirectly, record, disclose or make use of information obtained in the course of performing those functions except —

- (a) for the purpose of, or in connection with, performing functions under these regulations; or
- (b) as required or allowed by these regulations or another written law; or
- (c) for the purpose of the investigation of a suspected offence under these regulations or the conduct of proceedings against a person for an offence under these regulations; or
- (d) for the purpose of any other legal proceeding arising out of the administration of these regulations; or
- (e) with the written consent of the person to whom the information relates.

Penalty: a fine of \$5 000.

Part 7 — Other matters

38. Petroleum and Diving Safety Levies Account

- (1) An agency special purpose account called the Petroleum and Diving Safety Levies Account (the *Account*) is to be established for the department under the *Financial Management Act 2006* section 16.
- (2) The Account must be credited with the following —
 - (a) any safety levy paid or recovered in relation to petroleum and diving operations;
 - (b) any penalty amount paid or recovered in relation to petroleum and diving operations.
- (3) Moneys held in the Account must be applied in payment of the costs and expenses incurred in the administration and enforcement of these enactments —
 - (a) the *Work Health and Safety (Resources) Act 2016* (as they apply to petroleum and diving operations);
 - (b) the *Work Health and Safety (Resources) Regulations 2016* (as they apply to petroleum and diving operations).

39. Mines Safety Account

- (1) An agency special purpose account and called the Mines Safety Account is to be established for the department under the *Financial Management Act 2006* section 16.
- (2) The Mines Safety Account is to be credited with the following —
 - (a) any safety levy paid or recovered in relation to mining operations;
 - (b) any penalty amount paid or recovered in relation to mining operations.
- (3) Moneys held in the Mines Safety Account are to be applied in payment of the costs and expenses incurred in the administration and enforcement of these enactments —
 - (a) the *Work Health and Safety (Resources) Act 2016* (as they apply to mining operations);
 - (b) the *Work Health and Safety (Resources) Regulations 2016* (as they apply to mining operations).

Part 8 — Record keeping and provision of information

40. Records in relation to workers

- (1) The mine operator at a mine must keep records that enable the total number of hours worked at the mine by workers in each levy period to be verified.

Penalty:

- (a) for an individual — a fine of \$5 000;
- (b) for a body corporate — a fine of \$25 000.

- (2) Nothing in subregulation (1) is to be taken to require the mine operator at a mine to keep separate records for the purposes of that subregulation.

- (3) A person must not, in records referred to in subregulation (1), make an entry relating to the number of hours worked at the mine by workers that —

- (a) the person knows is false or misleading in a material particular; or
- (b) is false or misleading in a material particular, with reckless disregard as to whether or not the entry is false or misleading in a material particular.

Penalty:

- (a) for an individual — a fine of \$5 000;
- (b) for a body corporate — a fine of \$25 000.

- (4) A person obliged to keep records under subregulation (1) must keep the records for at least 5 years after the end of the levy period to which they relate, whether or not the person remains the mine operator at the mine.

Penalty:

- (a) for an individual — a fine of \$5 000;
- (b) for a body corporate — a fine of \$25 000.

- (5) If a person obliged to keep records under subregulation (1) ceases to be the mine operator at the mine within the 5 year period referred to in subregulation (4), the person must, within 15 days after ceasing to be the mine operator at the mine, notify the CEO in writing of the place where the records are kept.

Penalty:

- (a) for an individual — a fine of \$5 000;
- (b) for a body corporate — a fine of \$25 000.

41. Quarterly report in relation to workers

- (1) A mine operator at a mine at the end of each levy period must, within 15 days after the end of the levy period, give a report to the CEO specifying the total number of hours worked at the mine by workers in that levy period.

Penalty:

- (a) for an individual — a fine of \$5 000;
- (b) for a body corporate — a fine of \$25 000.

- (2) If there is no mine operator at the mine at the end of the levy period, the person who was the last mine operator in that levy period must comply with subregulation (1).

Penalty:

- (a) for an individual — a fine of \$5 000;
- (b) for a body corporate — a fine of \$25 000.

Part 9 — Major Hazard Facilities Licence Fees

42. Safety case fees for major hazard facilities

- (1) The major hazard facility operator must pay the relevant safety case fee, specified in Appendix 4, for the first submission for the acceptance of a safety case for a major hazard facility operation.
- (2) The safety case fee must accompany the submission of the safety case.

43. Annual operation fees for major hazard facilities

- (1) The operator of a major hazard facility must pay the relevant annual operation fee specified in Appendix 4.
- (2) An annual operation fee payable under subregulation (1) must be paid annually.
- (3) The first annual payment must be made before, on or within one month of the consent to operate for the major hazard facility being issued.
- (4) Each subsequent annual payment must be made before, on or within 3 months of the anniversary of the date on which the consent to operate was issued.
- (5) If under subregulation (3) a fee is paid after the consent to operate was issued, the operator must pay, with the fee, a late payment fee of \$36.
- (6) If under subregulation (4) a fee is paid after the anniversary date on which the consent to operate was issued, the operator must pay, with the fee, a late payment fee of \$36.

Appendix 1 – Levy amount

Schedule 1 – Petroleum and Diving Operations

- (1) The levy amount in respect of a safety system for a levy period is the levy amount worked out in accordance with this Schedule.
- (2) If the safety system is classified as belonging to one class for the levy period, the levy amount (L) for the levy period is worked out using the formula —

$$L = \frac{R \times D \times C}{365}$$

where —

R is \$9 000;

D is the number of days the operation to which the safety system relates was carried out during the levy period;

C is the complexity rating for the class.

- (3) If the safety system is classified as belonging to different classes for different parts of the levy period, the levy amount for the levy period is worked out by —
 - (a) working out an amount (A) for each part of the levy period using the formula —

$$A = \frac{R \times P \times C}{365}$$

where —

R is \$9 000;

P is the number of days the operation to which the safety system relates was carried out during the part of the levy period;

C is the complexity rating for the class to which the safety system belongs for the part of the levy period; and

- (b) adding those amounts.

Schedule 2 – Mines

1.1 Levy Amount

The amount of levy payable in respect of a mine for a quarter is the amount (in dollars) equal to L in the formula —

$$L = R \times H$$

where —

H is the number of assessed hours for the quarter;

R is \$0.14.

1.2 Levy imposed

- (1) A levy is imposed in respect of a mine for each levy period in which the number of assessed hours exceeds 5 000.
- (2) After the end of each levy period an assessment officer must, in respect of a mine, assess the number of hours worked at the mine by workers in the levy period having regard to —
 - (a) the information contained in the quarterly reports given in respect of the mine for the levy period; and
 - (b) such other relevant information as may be available to the assessment officer, including information obtained by an authorised person exercising powers under Part 5 Division 2.

Appendix 2 – Classification of safety system

Classification of safety system for petroleum and diving operations

- (1) For the purposes of assessing the levy amount payable in respect of the safety system, the assessment officer must, after the end of the levy period to which the levy amount relates, determine the classification of the safety system for the levy period by classifying the safety system, as belonging to —
 - (a) one class for the levy period; or
 - (b) different classes for different parts of the levy period.
- (2) The safety system must be classified as belonging to —
 - (a) Class A for the relevant period if the assessment officer considers that the operation to which the safety system relates was of extreme complexity for the duration of that period; or
 - (b) Class B for the relevant period if the assessment officer considers that the operation to which the safety system relates was of high complexity for the duration of that period; or
 - (c) Class C for the relevant period if the assessment officer considers that the operation to which the safety system relates was of moderately high complexity for the duration of that period; or
 - (d) Class D for the relevant period if the assessment officer considers that the operation to which the safety system relates was of moderate complexity for the duration of that period; or
 - (e) Class E for the relevant period if the assessment officer considers that the operation to which the safety system relates was of low complexity for the duration of that period; or
 - (f) Class F for the relevant period if the assessment officer considers that the operation to which the safety system relates was of minimal complexity for the duration of that period.
- (3) When assessing the complexity of the operation to which the safety system relates for the purposes of subclause (2) the assessment officer must have regard to the following —
 - (a) the nature and extent of the operation;
 - (b) the number of persons engaged in the operation;

- (c) the level of risk to –
 - (i) the safety and health of persons engaged in the operation; and
 - (ii) in the case of a petroleum operation, to the safety and health of other persons, arising from the operation.

Appendix 3 – Complexity ratings

Table

Class	Column A	Column B
Class A	21	30
Class B	15	22
Class C	10	15
Class D	6	10
Class E	3	5
Class F	1	2

Column A – Complexity ratings for a safety system other than covered in Column B

Column B – Complexity ratings for a safety case in relation to an offshore petroleum facility, other than a pipeline

Appendix 4 — Major Hazard Facility Fees

4.1 Classes of major hazard facility for purposes of fees

Major hazard facilities must be classified as belonging to —

- (1) A Class A facility is any major hazard facility at which prescribed chemicals are used or likely to be used in an industrial process that the CEO determines is a process of high complexity.
- (2) A Class B facility is any major hazard facility at which prescribed chemicals are used or likely to be used in an industrial process that the CEO determines is a process of medium complexity.
- (3) A Class C facility is —
 - (a) any major hazard facility at which prescribed chemicals are used or likely to be used in an industrial process that the CEO determines is a process of low complexity; or
 - (b) any major hazard facility at which prescribed chemicals —
 - (i) are stored or likely to be stored, but not used or likely to be used in an industrial production process; and
 - (ii) in the view of the CEO, are frequently handled.
- (4) A Class D facility is any major hazard facility at which prescribed chemicals—
 - (a) are stored or likely to be stored, but not used or likely to be used in an industrial production process; and
 - (b) in the view of the CEO, are infrequently handled.

4.2 Safety case fees for major hazard facilities

The relevant fee to be paid for the submission of the first safety case in respect of a major hazard facility operation is the fee in the Table relevant to the class of the major hazard facility as set out below —

Table

Class of Major Hazard Facility	Fee (\$)
Class A	125 000
Class B	100 000
Class C	100 000
Class D	20 000

4.3 Annual operation fees for major hazard facilities

The relevant annual operation fee to be paid in respect of a major hazard facility is the fee in the Table relevant to the class of the major hazard facility as set out below -

Table

Class of Major Hazard Facility	Fee (\$)
Class A	125 000
Class B	100 000
Class C	100 000
Class D	20 000