



Ministerial Advisory Panel on Safety Legislation Reform

AGENDA

Date:	Wednesday 8 June 2016	Time:	8:30am – 10:30am
Venue:	Koorling-Dandjoo International Conference Room - Level 2 1 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: Attachments 2 & 3	Simon Ridge
4.	Stakeholder workshop reports – Attachments 4 - 10	Simon Ridge
5.	Other business	Chair
6.	<i>Next Meeting: 27 July 2016, 8:30am – 10:30am</i>	

Information Papers:

1. Actions list
2. Safety Legislation Reform progress update
3. WHS (Resources) Legislation timeline
4. Safety Case Workshop Report
5. Mine Safety Management System Workshop Report
6. Statutory Positions
7. Electrical Safety
8. Petroleum and MHF Facilities Workshop Report
9. Occupational Health and Hygiene Workshop Report
10. Plant and Structures Workshop Report



File No: A1375/201301

ACTIONS LIST as at 8 June 2016

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 discussions on the regulations commence.	TBA	WorkSafe will be invited to attend when workshops are completed.
2.	Meeting 30 September 2015		
	DMP to provide examples of the type of information the Department seeks to publish. MAP to provide feedback.	TBA	Awaiting information from DMP's Transparency Working Group.

Completed Actions

ACTION ITEM		DUE DATE	STATUS
1.	Meeting 25 March 2015		
	NOPSEMA presentation to be sent to MAP 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
	DMP to send MAP members a copy of the expected implementation timeline for the WHS (Resources) 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 regulations 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
	DMP to send copy of Marsden Jacob presentation to MAP members.	17 Aug 2015	Completed

ACTION ITEM		DUE DATE	STATUS
	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
	DMP to advise MAP and MIAC of Government response to Parliamentary Inquiry into mental health impacts of FIFO/DIDO.	19 Oct 2015	Completed
3.	Meeting 30 September 2015		
	DMP to circulate mock-up levy regulations and policy document to MAP members for comment.	7 Oct 2015	Completed
	DMP to provide MAP members with a paper on the process for the regulations workshops.	27 Oct 2015	Completed
	DMP to discuss Globally Harmonised System of Classification & Labelling of Chemicals (GHS) with PACIA.	30 Oct 2015	Completed



Ministerial Advisory Panel on Safety Legislation Reform

Progress update: 8 June 2016

Work Health and Safety (Resources) Bill

Parliamentary Counsel's Office (PCO) commenced drafting the Bill during February 2016 and is continuing to liaise with DMP during the drafting process.

However, due to delays in this drafting process, the Department has obtained approval from the Minister to postpone implementation of the legislation to 1 July 2017. An updated timeline has been provided to MAP members as Attachment 3.

It is expected that the Bill will be ready for introduction to Parliament in August 2016.

Work Health and Safety (Resources) Regulations

An exposure draft of the regulations will be presented for comment when available. Drafting of the regulations should be able to commence soon after the Regulatory Impact Statement process is finalised, and after the Bill is introduced into Parliament

Stakeholder Engagement

Stakeholder workshops on WHS (Resources) Regulations

Stakeholder workshops are being held on topics requiring additional consultation. MAP is invited to nominate representatives to attend.

The following workshops have been completed and reports produced for MAP:

- 26 November 2015: Safety Case Workshop (petroleum and major hazard facilities)
- 3 December 2015: Mine Safety Management System Workshop
- 10 March 2016: Statutory Positions Workshop (mining)
- 1 April 2016: Electrical safety (mining)
- 4 April 2016: Petroleum/MHF Facilities
- 11 April 2016: Occupational Health (mining)
- 15 April 2016: Plant and Machinery (mining)

As union representatives were unavailable to attend the workshops, the reports were provided to UnionsWA and their comments have been included. DMP and unions will schedule a meeting during June 2016 for further discussions on the proposed regulations.

Upcoming workshops (date to be confirmed):

- **June/July 2016: Other mine safety provisions (out of session paper)**
- **July 2016: Transitional Arrangements**

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

DMP issued a Request for Quote to four companies for a consultant to independently manage the Regulatory Impact Statement (RIS) consultation process to identify the issues, costs and benefits of the proposed Work Health and Safety (Resources) Regulations.

Marsden Jacob Associates were the successful respondent and work is underway on preparing the Consultation RIS (C-RIS) document. The C-RIS will cover the key concepts and changes, and the outcomes of consultation undertaken to date, including the stakeholder workshop reports.

DMP will seek Regulatory Gatekeeping Unit approval of the C-RIS, before it is released for public comment.

The public comment period is expected to run from 27 June to 8 August 2016, with a stakeholder forum on 28 July 2016.

The Decision RIS is expected to be approved by the Regulatory Gatekeeping Unit by the end of September 2016 and will then be submitted to the Minister for consideration.

Marsden Jacob Associates will provide a briefing on the RIS process at the 27 July 2016 MAP meeting.

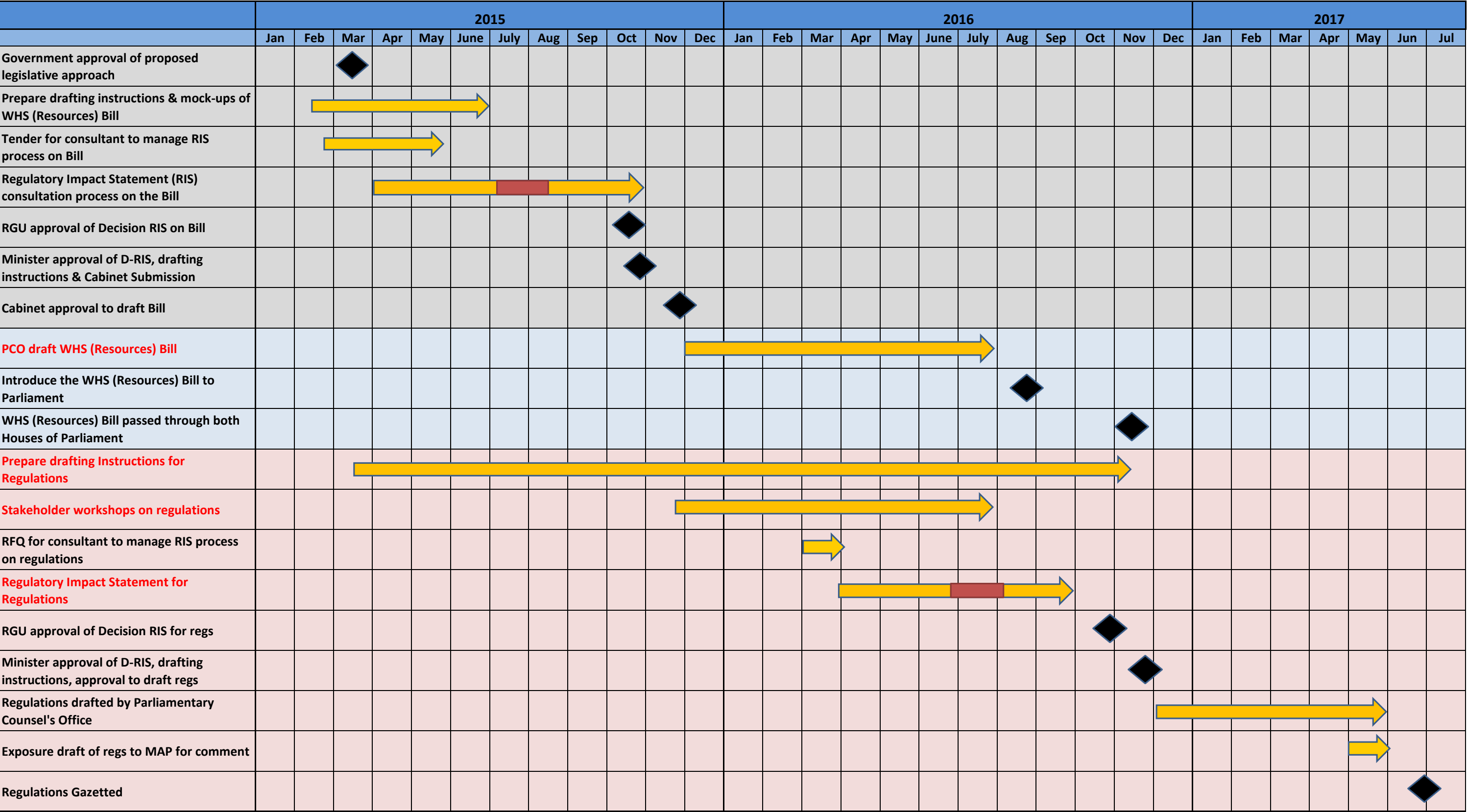
Work Health and Safety legislation for general industry

The Minister for Commerce is considering information provided by WorkSafe in relation to the modifications for Western Australia's proposed WHS Bill for general industry.

WorkSafe has liaised with DMP in relation to the WHS laws.

Following a review of the model WHS Regulations, WorkSafe expected to commence the public consultation process on 1 June 2016, with a three-month comment period.

Safety Legislation Reform Project - WHS (Resources) Legislation (indicative only)



Assumptions:
Cabinet approval of drafting instructions is obtained quickly
Cabinet assigns high priority for drafting, and PCO can commit resources immediately to the drafting process
No significant delays in passing the Bill through Parliament
RIS & drafting process don't raise any major issues
Continued Government support for WHS (R) legislation
PCO drafting of regulations commences as soon as Minister approves D-RIS and Bill is introduced to Parliament
PCO drafting of regulations takes 6 months

2016 Parliamentary sitting dates
16 – 18 August
23 – 25 August
RECESS 1 WEEK
6 – 8 September
13 – 15 September
20 – 22 Sep
RECESS 2 WEEKS
11 - 13 October
18 - 20 October
RECESS 2 WEEKS
8 - 10 November
15 - 17 November
NO MORE SITTINGS IN 2016

STATE ELECTION : 11 March 2017



Safety Case Workshop Report

Background

DMP committed to a full and open consultation process during development of the proposed Work Health and Safety (Resources) legislation.

Consultation on the proposed content of the Bill has been completed and it is currently being drafted by Parliamentary Counsels Office. Consultation on the supporting regulations has commenced.

This workshop covered the safety case provisions in the regulations, affecting the petroleum and major hazard facilities (MHF) industry sectors.

Objectives

The key principles for the safety legislation reform are:

- modernising, consolidating and simplifying legislation
- removing prescription and duplication
- providing consistency across different industry sectors
- using codes of practice and guidelines for further guidance and detail.

Workshop consultation process

Member groups on the Ministerial Advisory Panel for Safety Legislation Reform (MAP) were asked to invite representatives from industry, unions and the regulator to participate in a workshop held on 26 November 2015, with 31 people attending.

Briefing papers were provided prior to the workshop. To assist in finalising policy positions, attendees were requested to provide reasons and evidence to support alternatives to the proposed concepts. After the workshop, meeting notes were prepared and distributed to attendees for comment and written submissions were also encouraged.

The Department considered stakeholder feedback at a management meeting on 11 January 2016 and decided its preferred course of action.

Stakeholders will have further opportunities to comment on the proposed legislative changes through MAP; other workshops and adhoc stakeholder meetings; additional written submissions to DMP; and the Regulatory Impact Statement (RIS) public consultation process on the regulations in mid-2016.

Current legislation

The current safety provisions are spread across multiple Acts and regulations. This is not an effective or efficient regulatory framework.

Major Hazard Facilities are licenced under the *Dangerous Goods Safety Act 2004*. MHFs require a Safety Report, which covers process safety only. Occupational safety and health is covered by WorkSafe under the *Occupation Safety and Health Act 1984*.

Onshore petroleum operations are performed on titles under the *Petroleum and Geothermal Energy Resources Act 1967*. These operations require a Safety Management System (SMS), which covers occupational and process safety.

Onshore transmission pipelines are licenced under the *Petroleum Pipelines Act 1969*. These operations require a Safety Case, which covers occupational and process safety.

Offshore transmission pipelines are licenced under the *Petroleum (Submerged Lands) Act 1982*. These pipelines require a Pipeline Management Plan (PMP).

Offshore petroleum facilities are installed on blocks licenced under the *Petroleum (Submerged Lands) Act 1982*. These facilities require a Safety Case covering occupational and process safety.

Petroleum diving projects require a Diving Safety Management System (DSMS) under the Petroleum (Submerged Lands) (Diving Safety) Regulations 2007, covering occupational and process safety.

Proposed legislation

The proposed Work Health and Safety (Resources) Act will:

- consolidate safety provisions under one Act and one set of regulations, covering onshore and offshore petroleum and pipelines, geothermal energy, diving and MHFs
- require all petroleum and MHF operators to prepare and implement a Safety Case (diving operations require a Diving Safety Management System (DSMS))
- enable safety management for petroleum, pipelines, and major hazard facilities to be combined under a single Safety Case, if appropriate
- ensure that over the entire life cycle of an asset, a Safety Case will be in place that covers all activities; a separate Safety Case is not required for the construction and operation phases, but a revised Safety Case must be submitted to DMP before operations can commence
- transfer responsibility for the regulation of occupational health and safety at MHFs from WorkSafe Division of the Department of Commerce to DMP
- contain performance-based provisions dealing with the outcome and how risk is controlled on site, rather than having prescriptive requirements
- dis-apply the Gas Standards Act, WHS/OSH Act and Dangerous Goods (Storage and Handling) regulations, to avoid conflicts with prescriptive requirements (the Electricity Act and other Dangerous Goods regulations will remain in force)
- include transitional provisions to phase in the new requirements.

Recommendation:

That the:

- Ministerial Advisory Panel notes the feedback from the workshop; and
- DMP consider this information when developing the proposed Work Health and Safety (Resources) legislation for Western Australia.

Key changes discussed

Key changes	Issues raised by stakeholders	DMP response
Key change 1 – Limits of operation (r.4) Safety Case will be required from start of construction until decommissioning and removal of infrastructure. A single Safety Case may cover a number of related operations, provided these are all under the management and control of a single operator; e.g. offshore production platform, offshore pipeline, onshore wet gas pipeline, onshore production wells, gas processing plant and the sales gas pipeline could all be under one Safety Case.	No issues raised. Post workshop comments from UnionsWA Supportive of the consolidation of regulations to cover on & offshore facilities;	N/A
Key change 2 – Notification requirement (MHFs) (r.6) DMP must be notified about the quantity of stored prescribed hazardous chemicals, for existing and new sites. This notification needs to be done at the design intent stage, so that DMP can assess whether the facility needs to be declared as an MHF. A safety case needs to be in place by the time construction commences. The trigger for considering the declaration of an MHF is when DMP is notified that the critical quantities will be exceeded. The critical quantity of prescribed chemicals (currently known as Schedule 1 substances) is 10% of threshold values, but the Chief Officer has the discretion to decide whether a site is declared as an MHF, based on a number of factors (see below).	No issues raised.	N/A
Key change 3 – Declaration of MHF (r.11) There is no automatic declaration when threshold quantity is reached – the regulator still has discretion on whether to declare a site to be an MHF. The MHF declaration process is based on: <ul style="list-style-type: none"> Quantity of prescribed chemicals Type of activity Surrounding land use Potential to affect the public any other written law that applies to the place for the purpose of ensuring that dangerous goods are stored, handled and transported safely 	<ol style="list-style-type: none"> Under proposed definitions, a pipeline could technically be declared an MHF. The pipeline industry requested that the legislation be amended to ensure that a pipeline cannot be declared an MHF. Can ports be declared an MHF? Can other areas such as laboratories be part of the MHF? 	<ol style="list-style-type: none"> DMP will review the definitions and consider wording to ensure pipelines cannot be declared as an MHF. <i>Policy decision from 11 Jan 2016 DMP meeting:</i> There will be no difference between the safety provisions between a pipeline and an MHF. The differences come about with licencing and fees. DMP does not see any need to include provisions that a pipeline cannot be declared an MHF. However, PCO will consider this when drafting the legislation. A port may be declared an MHF at DMP's discretion. There is no intention to change this. An MHF may include a number of different areas (e.g. laboratories), but all operations and activities

Key changes	Issues raised by stakeholders	DMP response
	<p>4. Does WorkSafe have any jurisdiction?</p> <p>Post workshop comments from UnionsWA</p> <p>Supportive of the transition of MHF to DMP from WorkSafe.</p> <p>5. It is not clear which parts of a site will be declared as the MHF. Will the MHF make up certain sections of the site, or the entire site? If loading from the MHF, through a pipeline onto the ship, do you include the pipeline and ship as part of the MHF?</p> <p>Post workshop comments from UnionsWA</p> <p>Reinforce comment 5 – clarity is important to assist workers understand jurisdiction. Especially if accommodation camp is involved within the fence line.</p> <p>6. Declaration only applies to MHFs. Shouldn't petroleum sites also follow some sort of declaration process?</p> <p>7. The existing regulation 20 in the DGS (MHF) Regs requires consultation prior to classifying a place as an MHF.</p>	<p>within the bounds of the declared MHF area will be covered by the MHF safety case.</p> <p>4. WorkSafe has no jurisdiction.</p> <p>5. Site boundary</p> <p>DMP will provide clarification in the guidance note on declaration of MHFs. Current MHF declaration categories will continue.</p> <p>When declaring an MHF, the fence line will generally be considered the limit of the MHF. The boundary will be clearly stated in the declaration. Any structure or item of plant outside of the boundary is not considered part of the MHF.</p> <p>6. Petroleum sites</p> <p>The petroleum operations will continue to be licenced under the PPA, PAGERA and PS�A as they currently are. There is no requirement to declare petroleum sites</p> <p>7. Consultation</p> <p>DMP will consider this.</p>
Key change 4 – MHF threshold classification (sch.15)		
<ul style="list-style-type: none"> Threshold values will be consistent with those adopted by Safe Work Australia. Quantities are consistent with the current values 	No issues raised.	DMP is investigating the definition of prescribed chemicals used in other jurisdictions (e.g. COMAH, New Zealand) and is considering the implications of adopting a similar definition.
Key change 5 – MHF licence		
<p>When a site is a declared MHF, the Dangerous Goods Safety (Storage and Handling of Non-explosives) Regulations will be disapplied, so a dangerous goods site licence will not be required. Dangerous goods will be managed under the WHS (R) Bill, using a Safety Case regime.</p> <p>Dangerous goods safety regulations for explosives, security and transport will still apply.</p>	No issues raised.	N/A

Key changes	Issues raised by stakeholders	DMP response
The proposed legislation requires risks to be controlled and Codes of Practice provide further guidance. It is anticipated that operators will comply with and exceed the prescriptive requirements.		
Key change 6 – Nomination of Operator (r.16)		
<p>All operations will have an operator, who provides the Safety Case and is the main contact with Resources Safety. The operator has the overall responsibility and primary duties and may be a company or individual, the licensee or owner.</p> <p>The operator will be the PCBU with the day to day management and control of the facility. This will permit a specialist contractor to be the operator where an investment company owns the facility. For drilling on-shore, the operator of the drill rig will be the operator as they have the control of the activities on site.</p> <p>The Site Senior Executive (SSE) is quite different, and is the person, designated to a position, who is responsible at the operation on site.</p> <p>For a diving operation, the Diving Supervisor submits the DSMS. The relationship between the Diving Supervisor and facility operator is maintained as per the current requirements.</p>	No issues raised.	N/A
Key change 7 – Responsible Officer (r.16)		
Operator nomination will include nominating a 'Responsible Officer'; the person with overall responsibility for safety, who signs the safety policy. DMP proposed that the responsible officer is a specific person.	The consensus was that 'responsible person' should be role-based and not designated to a particular person.	DMP will consider making the 'responsible officer' based on a role.
Key change 8 – Inclusion of Character Grounds		
Whilst the model WHS regulations include character requirements (reg 538(3)), DMP is considering not to adopt this provision in Western Australia.	No issues raised.	N/A
Key change 9 – Informing the Local Community/Authority (r.28, 30)		
<p>The proposed legislation requires that:</p> <ul style="list-style-type: none"> information be provided to the local authority and the community, including a summary of the Safety Case; in the event of a Major Accident Event (MAE), the operator will need to inform the local community. <p>The model WHS is highly prescriptive and detailed on the information that needs to be provided to local communities,</p>	<ol style="list-style-type: none"> Industry agreed that it is important to inform the local community, but notification is already required under environmental legislation, so additional notification may be unnecessary. Companies are required to provide details of chemicals, but perhaps the emergency services should inform the community. 	<ol style="list-style-type: none"> DMP's regulations will require that information summaries be provided. Companies need to manage MAEs before emergency services arrive on site, so operators still need to inform the community in extreme circumstances.

Key changes	Issues raised by stakeholders	DMP response
but DMP intends to only include high-level requirements in the regulations, with codes of practice providing additional guidance.	<ol style="list-style-type: none"> 3. Industry attendees commented that: <ol style="list-style-type: none"> a. more clarity is needed on what information needs to be disclosed b. security risks need to be considered when disclosing information c. it is also important to identify surrounding industries d. instead of referring to 'local authority', it may be better to refer to 'local stakeholders' 4. Pipeline industry attendees inquired how communities can be informed along a 1600km pipeline. 	<ol style="list-style-type: none"> 3. DMP will consider this feedback. 4. The stakeholder liaison plan currently used by many pipeline operators should cover this provision. <i>Policy decision from 11 Jan 2016 DMP meeting:</i> <ul style="list-style-type: none"> • Simplify the provisions by requiring the information to be publicly available (to permit the information to be included on a website) • Simplify the information provided to the community (by removing the summary of the Safety Case)
Key change 10 – Safety Case applies to Operation (r.31)		
<p>Currently, the Safety Case for pipelines and onshore petroleum applies to the operation, but for MHFs and offshore petroleum, it applies to a facility.</p> <p>In the proposed legislation, the safety case applies to the operation, not the facility.</p>	<ol style="list-style-type: none"> 1. Definitions of 'facility' and 'operation' are somewhat circular. 2. Is the head office included in the safety case? 3. What happens with remote operations? 	<ol style="list-style-type: none"> 1. Parliamentary Counsel's Office drafts the legislation and will determine which terminology is used. 2. 'Operation' is a licensed area – this excludes the Head Office from the Safety Case. 3. Remote operations are different – if the activity undertaken affects the site, then the WHS (Resources) legislation applies and a safety case is required. If it only affects local workers (e.g. workers in the control room), they are covered by WorkSafe.
Key change 11 – Content of Safety Case (r.36)		
<p>A Safety Case will be used for all petroleum and MHF industries (other than diving), with the requirements aligned with NOPSEMA, where appropriate. The Safety Case has four main components:</p> <ul style="list-style-type: none"> • Operation Description • Formal Safety Assessment • Safety Management System • Emergency Response Plan <p>DMP is considering re-organising the legislation such that all of the provisions relating to each SC component are grouped together. The wording will permit the operator to customise their SC to suit their operation. Transport tankers are not covered under WHS (R) regulations, as they are not facilities.</p> <p><u>Operation Description</u></p> <ul style="list-style-type: none"> • Layout, location, surrounding area, hazardous chemicals • Safety Critical Elements 	<ol style="list-style-type: none"> 1. Does DMP have a comparison of current and proposed safety case provisions? 2. Some Safety Cases are overly complicated. <p><u>Operation Description</u></p> <ol style="list-style-type: none"> 3. Operation description requirements wording in r.37 requires clarification and additional guidance. 	<ol style="list-style-type: none"> 1. DMP will provide a comparative table for current and proposed WHS provisions. It will be difficult to compare against the model WHS requirements as there is very little in common with that regime. 2. Contact DMP for guidance. <p><u>Operation Description</u></p> <ol style="list-style-type: none"> 3. DMP will consider this in preparing drafting instructions, but Parliamentary Counsel's Office decide the wording of legislative provisions.

Key changes	Issues raised by stakeholders	DMP response
<ul style="list-style-type: none"> List of technical standards Design, construction and installation Equipment required 	<p>4. Is off-site fabrication included?</p> <p>5. The Safety Case model seems overly focused on offshore petroleum.</p> <p>6. Can cross-referencing be used to refer to existing documents?</p> <p>7. How much detail is required?</p> <p>8. Are all standards required to be listed under technical standards?</p> <p><u>Formal Safety Assessment</u></p> <p>9. General consensus was that risk analysis should be appropriate to the hazard and the site, and that specific risk analyses should not be prescribed.</p> <p>10. Inclusion of the Fire and Explosion Risk Analysis was considered unnecessary.</p>	<p>4. As per current legislation, off-site fabrication will not be included in the Safety Case.</p> <p>5. If the provision is not applicable to the particular operation, then it is not required to be included within the Safety Case.</p> <p>6. Cross-referencing can be used and is appropriate. The Safety Case is a detailed description of the operation; it does not need to include all of the specifics.</p> <p>7. Equipment details and descriptions should be high-level and related to MAEs, and restricted to safety critical equipment.</p> <p>8. The list of technical standards is intended to refer to the key standards used. DMP does not expect an exhaustive list of all of the standards used.</p>
<p><u>Formal Safety Assessment</u></p> <ul style="list-style-type: none"> Detailed description of the FSA Identify all MAEs MAE risk assessment Demonstration of risk reduction (as far as is reasonably practicable) Fire and explosion risk analysis 	<p><u>Formal Safety Assessment</u></p> <p>9. DMP will consider this.</p> <p>10. Whilst NOPSEMA has Fire and Explosion Risk Analysis in their legislation, DMP agreed that the risk assessments which form the FSA will adequately cover this requirement. If necessary, it can also be included in guidance material.</p>	<p><u>Formal Safety Assessment</u></p> <p>9. DMP will consider this.</p> <p>10. Whilst NOPSEMA has Fire and Explosion Risk Analysis in their legislation, DMP agreed that the risk assessments which form the FSA will adequately cover this requirement. If necessary, it can also be included in guidance material.</p>
<p><u>Safety Management System</u></p> <p>The SMS covers all activities in the operation for its whole life cycle, from inception to closure.</p> <ul style="list-style-type: none"> Detailed description of the SMS Provides for all activities Ongoing identification of MAEs and hazards Manages all risks (as far as is reasonably practicable) Performance Standards – these are to be referenced in the Safety Case and should cover Safety Critical Elements only. The actual standards do not need to be included in the submission. Continuous improvement – this is about how things are controlled and managing the risks overall. It is not just a ‘snap-shot’. SSE 	<p><u>Safety Management System</u></p> <p>No issues raised.</p>	<p><u>Safety Management System</u></p> <p>N/A</p>

Key changes	Issues raised by stakeholders	DMP response
<ul style="list-style-type: none"> Competence Controlled substances Record management <p><u>Emergency Response Plan</u></p> <p>The Safety Case should only contain a description of the Emergency Response Plan (ERP), not a copy of the entire ERP.</p> <p>Consultation with Emergency Service Organisations will be required to ensure that external parties are pre-warned of potential emergencies and the operator is aware of their limitations.</p> <ul style="list-style-type: none"> Detailed description of the ERP for MAEs Emergency contacts, ESOs and local authority Consequence mitigation On and offsite warning systems On and offsite emergency resources Command structure Evacuation, escape and rescue analysis Communications systems Isolation and ESD Training and exercises 	<p><u>Emergency Response Plan</u></p> <p>11. Attendees considered that the wording was too prescriptive and should be more high-level. These details could be included in a code of practice rather than the legislation</p> <p>12. Can we move provisions intended for the ERP into the SMS for our Safety Case?</p>	<p><u>Emergency Response Plan</u></p> <p>11. DMP will consider simplifying the wording.</p> <p>12. DMP intends to retain the current wording that the Safety Case requires specific provisions. However, if it suits the operator's management structure to incorporate the requirement in a different part of the Safety Case, this will be acceptable.</p>
Key change 12 – Major Accident Events (MAE) (r.2)		
<ul style="list-style-type: none"> Currently, MHFs and petroleum define MAE's differently. <ul style="list-style-type: none"> Petroleum defines an MAE as an event with the potential to cause multiple fatalities. NOPSEMA has the same definition. MHF defines a Major Incident Hazard as any circumstance that could cause a process safety incident (loss of containment, fire, explosion, release of energy) that causes serious harm to people, property or the environment. Model WHS Legislation defines a Major Incident Hazard is a hazard that could cause or contribute to causing an incident that involves prescribed chemicals and exposes a person to a serious risk. DMP proposed that: <ul style="list-style-type: none"> MAEs are based on the potential to cause multiple fatalities. This is standard for petroleum, but new for 	<ol style="list-style-type: none"> There is some concern that by setting the level at multiple fatality, that a significant release will not be classed as an MAE. There is some confusion over what 'serious harm' is. The definition needs to be clarified. The MAEs should be related to the prescribed chemicals only, as the basis for declaring an MHF is the type and quantity of chemicals. The definition of performance standard is too specific and should align with NOPSEMA. 	<p>1, 2 & 3: DMP will consider this.</p> <p>4. The definition of performance standard in the mock Chapter 9 was written to more clearly link to the SCE. DMP will consider the recommendation when forwarding to PCO to draft.</p> <p><i>Policy decision from 11 Jan 2016 DMP meeting:</i></p> <p>DMP intend to use the existing petroleum threshold (potential to cause multiple fatalities). Applying a limit on the potential to cause multiple fatalities is appropriate. DMP will provide additional guidance to operators.</p> <p>The purpose of defining an MAE is to differentiate between the catastrophic events and other incidents. The operator needs to go too much further lengths to demonstrate that the risk associated with MAEs are ALARP and the controls in preventing/mitigating MAEs work as intended.</p>

Key changes	Issues raised by stakeholders	DMP response
<p>MHFs. Performance standards and ALARP demonstrations are only required for MAEs.</p> <ul style="list-style-type: none"> Less significant incidents still need to be ALARP, but they will be covered in the SMS. Safety Critical Element has been defined. Performance Standard has a revised definition <p>NOTE: As this is health and safety legislation, property and environmental issues are not considered.</p>		<p>The definition cannot be linked to chemicals and process safety only. The legislation does not differentiate between occupational and process safety.</p> <p>If the threshold level for an MAE comes in too low, the Safety Case will not clearly separate catastrophic events from an incident. e.g., falling from a step ladder has the potential to cause serious harm.</p> <p>However, the definition is based on the <i>potential</i> to cause a fatality. The event does not actually have to cause multiple fatalities.</p> <p>NOTE: As this is safety and health legislation, there will be no reference to property or environment.</p>
Key change 13 – Timeframe for Acceptance of a Safety Case (r.47)		
<p>The current petroleum legislative timeframe to assess a Safety Case is 90 days for a new safety case and 30 days for a revised safety case. The Regulator can extend the timeframe if necessary, by writing to the operator to inform them of the increased timeframe.</p> <p>There is currently no timeframe for MHF Safety Cases.</p> <p>The Department is looking to standardise processes, such as escalation and review. DMP proposed 90 calendar days for new or revised Safety Case. If a major change is made to the Safety Case and more time is required for a review, then the Safety Case should perhaps be considered as new. Stop the clock provisions will apply</p>	<ol style="list-style-type: none"> Consensus was that 90 days is too long for revision of the Safety Case, and 30 days was preferable (the time whilst the safety case is with DMP). Any increase in timeframes would materially affect project schedules It is also important that DMP's response to Safety Case submissions is consistent. Permitting a 90 day review period will drive in-efficiencies within the government. <p>Post workshop comments from UnionsWA Important that DMP is given enough time to review the documents provided, UnionsWA is supportive of the 90 day period.</p>	<ol style="list-style-type: none"> DMP will consider the suggested 30-day timeframe. The intent of the legislation is to increase consistency. DMP will consider the suggested 30-day timeframe. <p><i>Policy decision from 11 Jan 2016 DMP meeting:</i> Apply current petroleum timeframes of 90 days for new safety case and 30 days for revised safety case, keeping the extension allowance.</p>
Key change 14 – Public Risk (r.29)		
<ul style="list-style-type: none"> Operator will have a duty to the public. This applies to MHF, petroleum and pipelines. This is a new requirement for pipelines. Noting that the industry standard Australian Standard AS2885 currently covers public risk. Safety zone to remain under PAGERA and P(SL)A, therefore it is unlikely to impact on the operations. 	No issues raised.	N/A

Key changes	Issues raised by stakeholders	DMP response
Key change 15 – Occupational Safety and Health (r.29)		
<ul style="list-style-type: none"> Safety Case is required to cover all operations and activities WorkSafe have no jurisdiction Prescriptive requirements are yet to be decided. 	<p>Safety Cases have always been about managing high risk elements to avoid catastrophic events. The inclusion of OHS matters could undermine the focus from high risk elements. These two matters should be managed separately.</p>	<p>The petroleum and pipeline industry have historically included OSH within their Safety Cases.</p> <p>High consequence events (MAEs) will be covered within the Formal Safety Assessment. The output of the FSA is the identification of the MAEs, the SCEs, performance standards and ALARP demonstrations.</p> <p>The OSH components will be included within the description of the SMS. The description of the SMS will typically include a summary of the elements that make up the SMS such as; permit to work, management of change, maintenance management, competence and training, procedures and work instructions etc. Many of these elements will include SCE's. The detail relating the specific OSH controls will not be required within the safety case.</p> <p>DMP does not consider that the inclusion of all SMS elements, rather than just SCEs, will remove the focus from the FSA and MAEs.</p>
Key change 16 – Consent to Operate (MHFs only) (r.25)		
<ul style="list-style-type: none"> MHFs will require a 'consent to operate' (does not apply to petroleum/pipelines). This is a new requirement introduced to replace the MHF licence, and was introduced to partition between construction and operation. Consent is required prior to the introduction of prescribed chemicals in excess of the critical quantity. Even when a Safety Case has been accepted, chemicals cannot be moved onto site until there is a Consent to Operate. This is similar to a Consent to Construct. 	<ol style="list-style-type: none"> NOPSEMA does not have Consent to Operate requirements. Regulation 21 uses the word 'intolerable' – this should be changed. Companies need certainty after investing in a Safety Case. If a facility is ready to operate, they shouldn't have to wait 6 months because someone decides further constraints are required. Why can't the facility just notify DMP that they are about to start operations? <p>Industry is concerned about the introduction of the consent to operate on the basis of:</p> <ul style="list-style-type: none"> Investment surety Additional bureaucratic requirements There is no need as the Regulator has the power with the SC acceptance Not required for petroleum 	<ol style="list-style-type: none"> This requirement applies only to MHFs. DMP will consider this when preparing drafting instructions, but PCO decides the wording. The regulator needs to be able to stop the operation. A facility may be constructed by a contractor with little input from the operator, or commissioning can be done for the operator by a third party. This topic requires further consideration. <p><i>Policy decision from 11 Jan 2016 DMP meeting:</i></p> <p>The regulations state that the Regulator must accept the Safety Case if the provisions are met.</p> <p>Public awareness and knowledge of the acceptance process for Safety Cases should also be considered. Acceptance of the construction Safety Case will be viewed as government approval of the MHF.</p> <p>DMP has decided to remove the consent to operate and regulate through the Safety Case acceptance.</p> <p>A 'notice of operation' will distinguish when the MHF fee will be applied. Quantity of dangerous goods stored on site to be included within the content of the Safety Case.</p>

Key changes	Issues raised by stakeholders	DMP response
Key change 17 – Site Senior Executive (SSE) and Operator’s Representative		
<p>The Safety Case will define the SSE. The SSE should be empowered to make decisions, such as shutting down the facility, if the SSE believes it is necessary.</p> <p>DMP proposed splitting facilities into manned and unmanned:</p> <ul style="list-style-type: none"> • ‘Manned facilities’: personnel are normally present (MHF, MODU). These must have an SSE. The SSE is an office or position who must be on site, has control and is responsible for operations at the facility. There may be more than one SSE for an operation. • ‘Unmanned facilities’: personnel are <u>not</u> normally present (pipeline, monopod). These will not require an SSE, but retain the ‘operator’s representative.’ 	<p>It was suggested that DMP consider the Navigation Act or HSE (UK) for definitions. A definition for ‘unattended facility’ was suggested: <i>“A facility designed to be primarily operated remotely without constant presence of personnel.”</i></p>	<p>DMP agreed to provide more clarity on this concept, especially with the definitions, e.g. ‘normally manned’.</p> <p><i>Policy decision from 11 Jan 2016 DMP meeting:</i></p> <p>A revised definition based on the Normally Unmanned Installation (NUI) definition may fit the intent better:</p> <ul style="list-style-type: none"> • ‘<i>normally attended facility</i>’ means a facility, or part of a facility, primarily designed to be operated with the presence of personnel. • ‘<i>normally unattended facility</i>’ means a facility, or a part of a facility, primarily designed to be operated remotely through automated processes and without the presence of personnel.
Key change 18 – Duties of Petroleum Titleholder (r.9)		
<p>This addition is similar to a NOPSEMA provision, and covers duties in relation to wells</p>	No issues raised.	N/A
Key change 19 – Co-ordination, Simops		
<p>Neighbouring facilities, if their operations may impact on the other operation, may be requested by the regulator to co-ordinate their Safety Cases. This may require a bridging document.</p>	No issues raised.	N/A
Key change 20 – Accommodation		
<ul style="list-style-type: none"> • Accommodation must be covered in the Safety Case if: <ul style="list-style-type: none"> – owned or under the control of the operator, and – necessary for worker’s engagement, and – not within a townsite or the metro region • This applies to accommodation that is part of the facility, or outside of the title area / facility. • Transport of workers to and from work is not part of the Safety Case. It is covered by WorkSafe. 	<p>Further guidance will be required on this topic.</p> <p>Post workshop comments from UnionsWA</p> <p>Concern that workers will be covered by the safety case in the accommodation and at the workplace, but for brief periods may be covered by WorkSafe in between. Would it be more logical to just have one blanket coverage?</p>	<p>Attendees were asked to provide written comment to DMP.</p>

Key changes	Issues raised by stakeholders	DMP response
Key change 21 – Safety Case Review and Health and Safety Representative (HSR) Request		
<ul style="list-style-type: none"> Model WHS includes powers for the HSR to request a Safety Case review - a review of control measures. There is no equivalent in current Safety Case legislation. <p>DMP asked whether this should be included in the regulations.</p>	<p>The consensus was that this is unnecessary duplication. HSR powers are adequate.</p> <p>Post workshop comments from UnionsWA</p> <p>Given that the document will be drafted before any workers are on site, it is important that the regulations clearly state that HSRs can request a review of the provisions within a Safety Case. Relying on general HSR provisions may lead to disagreements on the extent of what they can/can't ask for a review of.</p>	<p>DMP will consider this.</p>
FURTHER DISCUSSIONS AT WORKSHOP Well Operations Management Plans (WOMPs)		
<p>DMP's Petroleum Division regulates well management under their existing Resource Regulations. They consider hazards in terms of environment or damage to the well bore.</p> <p>DMP's Resources Safety Division regulates the safety aspects of an operation and does not differentiate between above and below ground cut-offs. If there is a risk to people, then the operation needs to consider it under the Safety Case.</p>	<p>No issues raised.</p>	<p>N/A</p>
Revision of Safety Case		
<p>Requirement to revise a Safety Case:</p> <ol style="list-style-type: none"> where there is increased risk to the surrounding population. Therefore land use changes surrounding the facility would trigger a revision of the Safety Case. Operators should speak to the Department to check if a land use change requires a safety case review. (This change has been included as it is a vital component for an MHF.) based on the occurrence of an MAE. This is intended to apply to a significant event that had the potential to cause multiple fatalities. <p>The model WHS Legislation does not require the submission of the Safety Case for acceptance.</p> <p>NOPSEMA requires revisions and submission for any modification which is not adequately addressed.</p> <p>HSE in the UK requires revision and notification for any material change in the particulars. Revision of significant changes is an important aspect.</p>	<ol style="list-style-type: none"> Pipeline operators are concerned that if a Safety Case requires a revision each time land use changes, this would be extremely onerous and frequent over the length of a pipeline, particularly within metropolitan areas. No issues raised. <p><i>Subsequent feedback:</i></p> <ol style="list-style-type: none"> The review of the DGS Act commented that revisions of Safety Cases should not be submitted for acceptance. The suggestion was that DMP remove the requirement to re-submit the Safety Case when there is a significant change to a facility, as the operator can control it using management of change sections of the Safety Case. 	<ol style="list-style-type: none"> DMP will consider this. The Department may consider 'management of change' documents to facilitate monitoring of changes and potential reviews. N/A <p><i>Policy decisions from 11 Jan 2016 DMP meeting:</i></p> <p>DMP decided to revise the wording to require a Safety Case revision if there are land use changes where the risk has significantly increased and the Safety Case does not adequately cover this.</p> <ol style="list-style-type: none"> If this suggestion were implemented, significant changes, such as the addition of a gas train, or moving from construction to operation, would require acceptance by the Regulator. Therefore, DMP has decided to maintain the provision requiring re-submission of a Safety Case if there is a significant change to risk

Key changes	Issues raised by stakeholders	DMP response
<p>Dangerous incidents (r.92)</p> <p>The provisions in the regulations are the incidents that relate specifically to petroleum, MHF and pipelines. The list including fatalities and injuries has been included in the Bill.</p> <p>It is not intended for operators to report minor gas leaks (e.g. out of valve stem). DMP would like to avoid the quantities currently applied off shore.</p> <p>Consideration will be given to the wording relating to loss of containment.</p> <p>For petroleum, we currently have a threshold value on the quantity of petroleum released to create a notifiable incident. This is either 1kg of gas, 80L of oil OR sufficient quantity to cause an incident. There is also a threshold of 50 barrels (8m³) for a well kick.</p> <p>Currently, requirements of the DGSA apply for MHFs. DGs has published a guideline specifying quantities of substances (flammable gas 50m³, inert gas 100m³, toxic gas 5m³ ...). However, in the MHF regulations, an emission or loss of containment of a Schedule 1 substance is considered an MAE.</p> <p>Under the model WHS Act, any uncontrolled escape, spillage or leakage of a substance is a notifiable incident.</p> <p>DMP proposes applying a quantity threshold, to avoid a requirement to report incidents of minimal consequence. However, by requiring reports of all loss of containment incidents, DMP will have lead indicator tracking capability.</p>	<p>No issues raised.</p>	<p>N/A</p> <p><i>Policy decision from 11 Jan 2016 DMP meeting:</i></p> <p>Further investigation required into the reporting processes, to ensure that DMP has adequate information. DMP to consider specifying the incidents which require investigation by the regulator in the regulations. Other near miss and non-conformances used by the regulator to track industry performance could be moved to the monthly report form.</p> <p>Guidance will be developed to assist operators in determining if an occurrence is reportable.</p>
<p>Prescriptive requirements</p> <p>A separate Facilities workshop will discuss which requirements from Chapters 1 to 8 will apply if a Safety Case is in force. Some of these may be covered in the Safety Case or within guidance material. Potential examples:</p> <p>1. Registered plant: Currently:</p> <ul style="list-style-type: none"> – MHFs: WorkSafe regulate OSH, so plant must be registered with WorkSafe. – Petroleum: OSH Act does not apply, so operators are not required to register their plant. – Mining: DMP intends to continue plant registration for mine sites. <p>Types of plant, or plant design, likely to be present on a petroleum or MHF site and requiring registration includes:</p>	<p>1. Registered plant: No issues raised.</p>	<p>1. Registered plant:</p> <p><i>Policy decision from 11 Jan 2016 DMP meeting:</i></p> <p>Retain the current process applied to petroleum and remove the requirement to register plant through Worksafe at MHFs.</p>

Key changes	Issues raised by stakeholders	DMP response
<p>a. Boilers b. Mobile cranes >10T, gantry cranes >5T handling DGs, tower cranes c. EWPs and personnel hoists d. Concrete pump trucks e. Work boxes f. Pre-fabricated scaffold g. Pressure vessels and gas cylinders</p> <p>The design registration of the plant requires design to the appropriate Australian Standard (e.g. AS1418, 1200, 2030, 1576). Largely, onshore fixed operations would comply with these standards, as these are standard requirements that apply Australia wide. Even many of the pressure vessels designed overseas and imported are verified to be compliant to AS1210.</p> <p>Offshore and mobile operations are often designed and constructed international standards (e.g. ASME, DNV). WorkSafe would not register the design or item of plant without design verification of compliance with the Australian Standard.</p> <p>A large number of plant items are not currently registered, as this would be an impost on industry.</p> <p>2. High Risk Work Licences: HRWLs are issued by WorkSafe and are applicable throughout the State, except for petroleum operations. These cover rigging, scaffolding, crane driving, boiler operation and fork lift operation.</p> <p>Typically, onshore petroleum operators require HRWLs as per standard industry practice to comply with their competency requirements.</p> <p>Offshore, the industry often uses alternate methods to confirm competency. For example, Offshore Petroleum Industry Training Organisation (OPITO) approved courses and the Common Safety Training Program (CSTP) is common off WA.</p> <p>For offshore crane operations, the industry developed the competency unit which has been endorsed under the Australian Quality Training Framework (AQTF) and an industry guideline. This guideline was developed to comply with NOPSEMA's legislation.</p> <p>NOPSEMA implement a competency based system, below is an extraction from their crane competence guideline:</p> <p><i>A person holding a crane driver certificate for a land-based</i></p>	<p>2. High Risk Work Licences: No issues raised.</p>	<p>2. High Risk Work Licences:</p> <p><i>Policy decision from 11 Jan 2016 DMP meeting:</i></p> <p>Specify the requirement for workers to be competent, as currently used for petroleum. Remove the requirement for MHFs to have licenced operators under Worksafe's HRWL regime. Guidance material will be developed to assist operators in determining competence requirements.</p>

Key changes	Issues raised by stakeholders	DMP response
<p><i>crane issued in Australia under the national certification system may only require additional offshore specific training and competency assessment before being allowed to operate a crane on an offshore facility. It is up to the operator of the facility to determine on a case by case basis, under their offshore crane driver competency system, what additional training and competency assessment the person would require.</i></p> <p>3. Records book: DMP explained that the mining industry uses a records book (which will be electronic) to maintain communication between the inspectorate and organisation. It is used for continuous improvement, common learning, and removes subjectivity in inspections and audits.</p>	<p>3. Records book: There was general agreement that access to a central database of inspection results would be beneficial. Concerns included increased compliance burden, the administrative process and access to sensitive information. Industry said that the concept requires further clarification and discussion of the benefits. There is currently no requirement on inspectors to provide a record or summary of a visit to and MHF. This can result in a lack of transparency in the process and lead to misinterpretations.</p> <p>NOTE: Issues to be discussed in more detail at a separate workshop on Facilities.</p>	<p>3. Records book: DMP will provide further information.</p> <p><i>Policy decision from 11 Jan 2016 DMP meeting:</i></p> <p>The inclusion of a record book would be beneficial.</p>
Transition arrangements		
<p>DMP intends that currently approved / accepted Safety Cases will remain in force until it is due for review.</p> <p>Parliamentary Counsel's Office will need to consider how this will be applied.</p>	<p>To ensure businesses can meet the obligations of the new safety case requirements, documents supporting the new regime need to be made available well in advance.</p> <p>Recognition and acceptance of the current safety report should be valid, until such a time renewal is required.</p>	<p>DMP will endeavour to publish guidance as soon as practicable. Note that work on the guidance material cannot begin until the regulations have been drafted by PCO.</p> <p>DMP will request transitional requirements to approve Safety Cases/Reports to remain in force until due for renewal (either significant change or five yearly review).</p>
RAISED IN SUBSEQUENT DISCUSSIONS/ SUBMISSIONS: Application of Dangerous Goods Safety Act		
<p>DMP intended to dis-apply the Dangerous Goods Safety (Storage and Handling of Non-explosives) Regulations at petroleum and MHF facilities. The dangerous goods safety regulations covering Security Risk Substances, Transport and Explosives would still apply.</p> <p>This is an increase in coverage of the DGS Act for petroleum sites, which currently dis-apply the entire DGSA, and a decrease in coverage for MHFs.</p> <p>DMP would anticipate compliance to the prescriptive Dangerous Goods Safety (Storage and Handling of Non-explosives) Regulations requirements. Although not legislated,</p>	<ol style="list-style-type: none"> 1. The DGS Act has certain requirements for the emergency response on MHF's (FES-ERG / placarding etc.). The Department of Fire and Emergency Services would prefer that DMP retain these specific provisions from the Dangerous Goods Safety (Storage and Handling of Non-explosives) Regulations. 2. The Plastics and Chemicals Industry Association (PACIA) opposed this change; concerned that this would result in two separate regimes (some MHF operators also have dangerous goods sites). 	<p><i>Policy decisions from 11 Jan 2016 DMP meeting:</i></p> <ol style="list-style-type: none"> 1. DMP will dis-apply select components of the DGS (Storage and Handling of Non-explosives) Regulations. The retention of the storage and handling provisions for emergency response is appropriate. This will maintain consistency of legislation for petroleum, pipeline and MHFs. 2. This is unavoidable, as one regime is prescriptive while we are trying to implement performance based requirements.

Key changes	Issues raised by stakeholders	DMP response
<p>the operator would still have to apply controls to reduce risks to As Low As Reasonably Practicable (ALARP).</p> <p>As the Codes of Practice of the DGSA come under the Act, these codes would still be applicable to petroleum and MHF facilities.</p>		
Alignment of WorkSafe and DMP		
<p>DMP intend to dis-apply WorkSafe's legislation from any facility covered in the WHS(R) Bill</p> <p>The WHS(R) Bill will apply outcome based requirements in contrast to WorkSafe who will maintain prescriptive requirements.</p>	<p>MHFs are not defined by an industry type, such as petroleum or mining. Many operators will have both DMP and WorkSafe as regulators.</p> <p>To ensure minimal cost to MHFs it will be crucial that both regulators apply consistent regulatory approaches. Any differences will add burden and costs by limiting efficiency and increased uncertainty.</p> <p>It is recommended that WorkSafe and DMP have legislative recognition of the other regulators requirements on the generic WHS provisions.</p>	<p>Note that many petroleum and pipeline operators also cross jurisdictional boundaries and is being considered by DMP.</p> <p>DMP intends to include legislative recognition with some provisions, such as licensing, plant registration and health and safety representatives.</p> <p>However, there will be minimal prescription applied to petroleum and MHF. The outcome based legislation will permit the operator to implement Worksafe, Dangerous Goods and EnergySafety requirements.</p> <p>The detail on what prescriptive requirements will be included in the WHS(R) Regulations will be discussed at the Facilities Workshop.</p>
Post workshop comments from UnionsWA		
	<p>Generally, our concerns with the safety case system have been communicated to DMP in the past. Our history of working with the system shows that the safety case is purchased off the shelf by an employer and is often not tailored to suit the workplace in which it operates. Additionally, when the document is implemented before the workforce mobilises, the worker and HSR involvement & buy in to the document is non-existent.</p> <p>Much of the union concern regarding the principle of the safety case system would be better captured by a face-to-face discussion, as they will fall into how the regulation is implemented and enforced, rather than how it is drafted.</p> <p>Comments have been moved to relevant sections.</p> <p>NOTE: a meeting between union representatives and DMP will be scheduled in June 2016.</p>	



Mine Safety Management System (MSMS) Workshop Report

Background

The Work Health and Safety (Resources) legislation will consolidate safety provisions under one Act and one set of regulations, covering mining, petroleum and MHFs. While improving consistency across the resources industries, the proposed legislation will not take a “one size fits all” approach. With the resources safety legislation being less prescriptive, innovation and new technologies can be engaged to improve safety outcomes.

DMP's Bill is based on the national model WHS Act, but the supporting regulations will be customised to suit Western Australia.

DMP committed to a full and open consultation process during development of the proposed Work Health and Safety (Resources) legislation. Consultation on the proposed content of the Bill has been completed and it is currently being drafted by Parliamentary Counsels Office. Consultation on the supporting regulations has commenced.

This workshop covered the Mines Safety Management System (MSMS) provisions in the regulations, applicable to the mining industry.

New South Wales, Queensland and WA participated in the National Mine Safety Framework (NMSF), which developed detailed requirements of the SMS. New South Wales and Queensland already regulate industry using an SMS approach.

Objectives

The key principles for the safety legislation reform are:

- modernising, consolidating and simplifying legislation
- removing prescription and duplication
- providing consistency across different industry sectors
- using codes of practice and guidelines for further guidance and detail.

Workshop consultation process

Member groups on the Ministerial Advisory Panel for Safety Legislation Reform (MAP) were asked to invite representatives from industry, unions and the regulator to participate in a workshop held on 3 December 2015, with 25 people attending.

Briefing papers were provided prior to the workshop. To assist in finalising policy positions, attendees were requested to provide reasons and evidence to support alternatives to the proposed concepts. After the workshop, meeting notes were prepared and distributed to attendees for comment and written submissions were also encouraged.

Stakeholders will have further opportunities to comment on the proposed legislative changes through MAP; other workshops and adhoc stakeholder meetings; additional written submissions to DMP; and the Regulatory Impact Statement (RIS) public consultation process on the regulations in mid-2016.

Current legislation

The current mine safety provisions are contained within the *Mines Safety and Inspection Act 1994* (MSIA) and Mines Safety and Inspection Regulations 1995 (MSIR).

The *Mines Safety and Inspection Act 1994* (MSIA) has provisions covering 'general duty of care' in section 9, which establishes the base for enabling legislation. However, the *Mines Safety and Inspection Regulations 1995* (MSIR) is, in general, prescriptive and provides details of precautions for specific hazards or situations. The prescriptive provisions are restrictive in nature and may not be able to deal with all possible scenarios. These provisions require updating as technology advances.

The current regulations do not have a provision requiring preparation and implementation of a Safety Management System by the employer or principal employer.

Section 42 of the MSIA and regulation 3.13 of the MSIR require preparation and submission of a Project Management Plan (PMP) at the commencement of a mining operation. It is not a 'live document' and has limitations to its enforceability status for safe running of a mine.

The MSIR contain some subject-specific regulations requiring hazard identification and risk control, but there are no general regulations on risk management.

A review of the mines safety legislation is long overdue, as it was last reviewed in 2004.

Proposed legislation

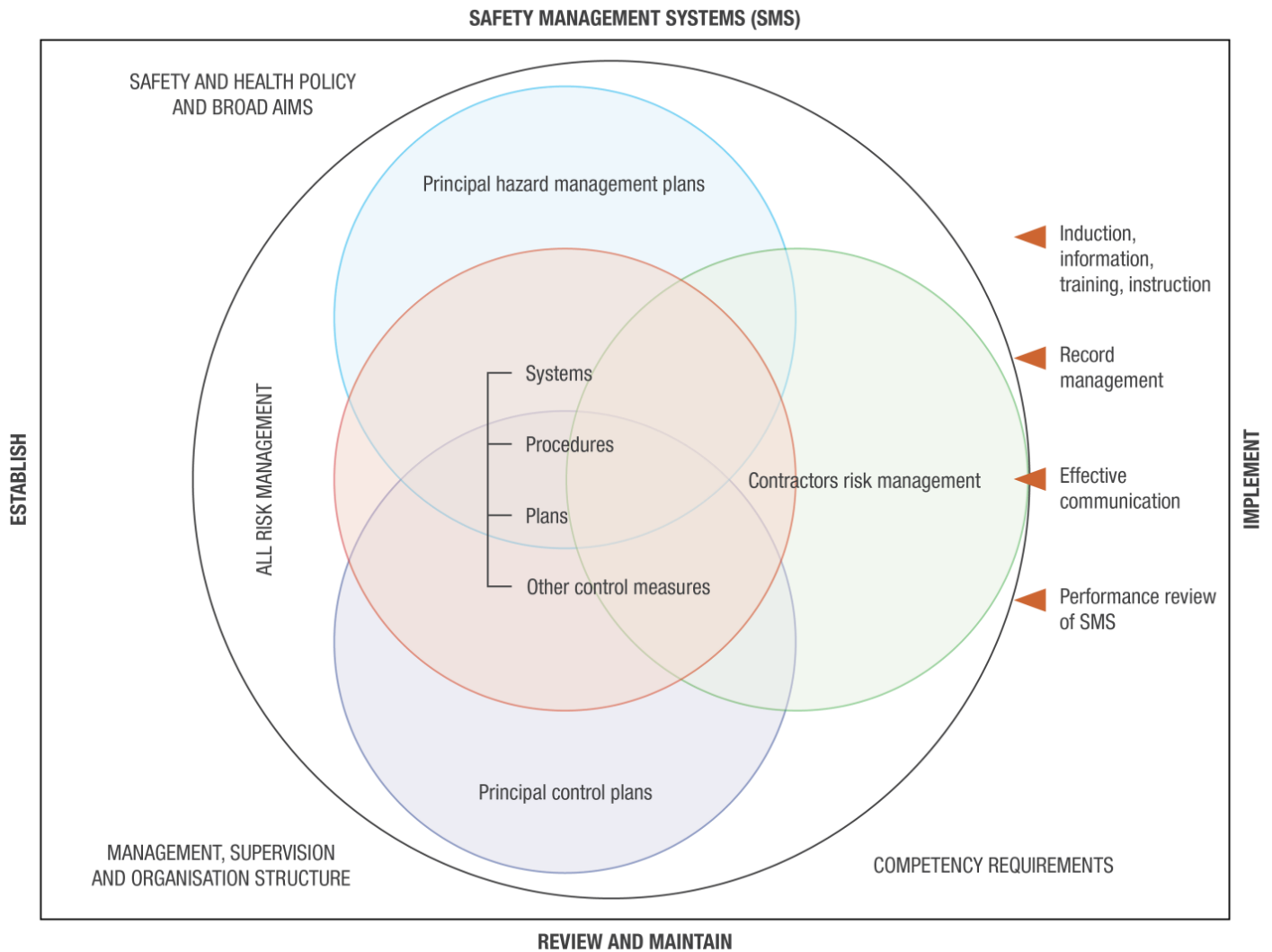
Chapter 10 of the proposed WHS (R) Regulations will focus on mining safety, and will include the following requirements:

- 'Mine operator' to replace 'principal employer' (this is defined in the WHS (Resources) Bill).

Post workshop comment from UnionsWA

Supportive of change of definition/terminology to mine operator

- the mine operator must develop, maintain and implement a Mine Safety Management System (MSMS). Introduction of the MSMS will assist in reducing prescription in the regulations. Most mines have their own documents covering the requirements in the proposed MSMS.
- MSMS will be a living document and it must be:
 - updated for the current operations
 - reviewed as prescribed
 - effective and assist in continual improvement of health and safety outcomes
- MSMS is developed by identifying site specific hazards and risk-based control measures.
- Key components of an MSMS are:
 - Health and Safety policies
 - Identified hazards, risk assessment and control management
 - Management and supervision
 - Competency of persons
 - Principal Hazard Management Plans (PHMPs)
 - Principal Control Plans (PCPs) (*NOTE: Subsequently, this was omitted*)
 - Planning, designing, practices and procedures
- MSMS is not required to be approved by the regulator
- An 'Outline of MSMS' for proposed mining operations will replace the current Project Management Plan / PMP and it will be required for approval before commencement of operation.
- A contractor must operate under MSMS developed or approved by the mine operator
- If considered deficient the Regulator or an inspector may ask for review of the MSMS
- Inspector may issue an Improvement Notice for non-compliance of the MSMS
- Transitional provisions, to phase in the new requirements.



Recommendation:

That the:

- Ministerial Advisory Panel notes the feedback from the workshop; and
- DMP consider this information when developing the proposed Work Health and Safety (Resources) legislation for Western Australia.

Key changes discussed

Key changes	Issues raised by stakeholders	DMP response
<p>Prescriptive versus risk-based requirements</p> <ul style="list-style-type: none"> Current, prescriptive legislation both for mining and other industry is generally based on historical evidence and events. The proposed risk-based WHS (Resources) legislation originates from what needs to be done to control hazards and mitigate risks associated with planned operations. This is a proactive approach that should include appropriate precautions. Codes of practice will not be prescriptive; instead they provide guidance to achieving the standards required under legislation. In most cases, following a code of practice would achieve compliance with the duties or requirements under the legislation in relation to the subject matter of the code. However, like regulations, codes of practice deal with particular issues and do not cover all situations that may arise. They are admissible in court proceedings, where a code of practice may be regarded as evidence of what is known about a hazard, risk or control. <p>Post workshop comment from UnionsWA <i>Concern that removal of prescription may make it harder for workers and OHS representatives to understand what minimum requirements are – it's important that codes are drafted in a manner that clearly communicates to the average worker what minimum standards are and how to meet them.</i></p> <p><i>Important that information isn't split between too many locations (i.e. Multiple codes, guides reg's). Needs to be easily findable for workers. Splitting information amongst multiple sources may in fact increase red tape as information must be sourced and referenced from multiple sources.</i></p> <ul style="list-style-type: none"> Following implementation of the WHS (Resources) legislation, there will be a transition period to allow resources industries to comply with the new requirements. 	<ol style="list-style-type: none"> Why is different legislation needed for mining and general industry if prescription is being removed? With the removal of prescription from legislation, how will the Department regulate industry? This may lead to inspectors having different interpretations of what is/is not acceptable. <p>Post-workshop comments:</p> <ol style="list-style-type: none"> <i>Further to item 3:</i> Under a risk based approach, it will be important the dispute resolution process is straight forward, well thought out and is also communicated openly for comment (Adi LaBombard, CME) <i>Further to item 3:</i> The drafting instructions need as far as possible clearly capture the intent to ensure the provisions in the WHS Regulations do not lead to unnecessary ambiguity with regards to interpretation by both industry and the inspectorate. Industry is keen to as far as possible avoid potentially lengthy complaints resolutions processes; it is preferable the regulations are drafted to avoid potential interpretational issues. <p>For example where industry has raised examples of where a potential interpretation or unclear definition may lead to unworkable or impractical expectations on the operator regarding the development of the MSMS these should be addressed as part of this process consultation process and clarified in the drafting instructions. (Adi LaBombard, CME)</p> <ol style="list-style-type: none"> <i>Replying to the DMP response to item 3 regarding the electronic record book:</i> Industry has some concerns regarding the workability of the proposed "Mine Record Book" and requirement for this to be transferred at disposal or transfer of an asset. <p>If the provisions in the regulation are unclear, this could create a significant administrative burden.</p>	<ol style="list-style-type: none"> While, for example, construction may be a high risk operation, resources industries are generally agreed to be more hazardous environments with very high risk profiles. Resources industries have for some time utilised risk management concepts that are focused on achieving defined safety outcomes. The proposed legislation will reinforce what is currently happening in general. This is a challenge for both the Department and industry. DMP will develop training modules for inspectors and for industry. There will be need to be close collaboration between DMP and industry both before and after implementation of the WHS (R) legislation, to understand how to operate under the new regime. The most important thing is that the inspectorate and industry want safer mines. There are safety requirements that mine operators should be able to demonstrate that they are meeting or exceeding. Occasionally there may be disputes but there will be a system in place within the legislation to resolve those disputes. If a dispute cannot be resolved between the mining operation and an inspector, it can be escalated to the Regulator. Further escalation can be to an independent arbitrator. <p>An electronic "record book" will be accepted to enable continuity of communication between the inspectorate and a mining operation. This will provide an auditable record to reduce misunderstanding of previous communication or instruction. It should be accessible to all workers.</p>

Key changes	Issues raised by stakeholders	DMP response
	<p>CME appreciates the intent is to ensure transfer of knowledge about risks and effective controls. However, industry considers there is a risk providing an overly detailed document to a subsequent operator may lead to that operator simply putting the same controls in place rather than reassessing the best controls for risks associated with their operation.</p> <p>The key elements and purpose of the 'record book' should be stipulated to:</p> <p>Ensure sensitive or commercial in confidence material need not be included</p> <p>Ensure it is clear provision of the document does not remove the need for a new operator to undertake own risk assessment process.</p> <p>Industry recommends allowing this to include a simplified version of the risk register and key controls as well as records of significant incidents and relevant communication with the inspectorate - rather than the whole MSMS. (Adi LaBombard, CME)</p> <p>7. The Society recommends that the proposed two year transitional period to the new Act be utilised to widely encourage its adoption. (Patrick Gilroy, OHSA)</p> <p>8. The Society stresses the importance of education and training of the inspectorate personnel to adjust to the philosophy of co-operation underpinning the Act and to eliminate, as far as possible, the inconsistencies frequently experienced by operators with inspectorate interpretations of the legislation. (Patrick Gilroy, OHSA)</p>	<p>Response to post-workshop comments</p> <p>4. As stated above, as a first step, arbitration will be by the Regulator. If the issue is not resolved, it may be referred to an independent body (State Arbitration Tribunal – SAT). The process and forms for raising these issues will be approved by the Regulator.</p> <p>5. Agreed. The legislation is drafted by the PCO. The Department will make every effort to ensure the 'Drafting Instructions' and the drafted provisions are unambiguous.</p> <p>6. Transfer of health and safety knowledge and experience from a mine operator to the new mine operator is important. It is agreed that commercially sensitive information does not form part of this proposed clause. The legislation will prescribe what records must be transferred. Managing safety at the operation will be the responsibility of the new operator, and this will require review and acceptance of an existing MSMS or development of a new MSMS for operating the mine safely.</p> <p>7. DMP will hold a stakeholder workshop in mid-2016 to consult on transitional arrangements.</p> <p>8. Agreed. The Department will undertake a training program for its inspectors. Similarly, information sessions will be held for the mining industry. Guidance material is being developed to assist small operators.</p>
Mines Safety Management System (MSMS)		
<p>There is currently no requirement under the MSIA to prepare and maintain an MSMS.</p> <p>Under the new WHS (Resources) regulations, every mining operation must prepare a Mine Safety Management System (MSMS). It is a document developed and implemented by the mine operator to manage health and safety of workers.</p>	<p>1. Where is the requirement for approval of the mine?</p> <p>2. Will a MSMS be required on site?</p> <p>3. If the MSMS is defined as part of the mine records, care needs to be taken, as an operation's MSMS may form part of the company-wide MSMS and may not be appropriate for a new operator. The new operator may</p>	<p>1. This will be in the regulations.</p> <p>A mining operation is defined in the Act. As soon as any activity, including exploration and construction starts on a site, it becomes an operation and requires approval.</p> <p>The complexity of the MSMS depends on the</p>

Key changes	Issues raised by stakeholders	DMP response
<p>The MSMS is not required to be a single physical document, but may be a repository of linked documents and systems that define and explain the safety framework of the operation. It is a living system continually updated and maintained.</p> <p>Currently, the Project Management Plan is required at the time of the commencement, to seek approval to start the mine.</p> <p>Under the WHS (Resources) Regulations, it is proposed that at the beginning of the mine, a mine operator will submit an 'Outline of MSMS' as part of the process to seek approval to commence mining operations (Note: The MSMS itself is not approved by DMP). It will contain general concepts, such as location of the mine, description of the mine, risk management principles, principal hazards and the local hazards of the mine. The 'Outline of MSMS' will then be developed into the MSMS and continually updated as the mine progresses.</p> <p>Whilst the MSMS is not approved by DMP, it must be accessible and available whenever required by the inspector.</p> <p>If deficiencies are found, the inspector may request a review of the MSMS. This ruling can be appealed first with the Regulator and subsequently with an independent arbitrator.</p> <p>The MSMS supports the primary duty of care (section 19). Key points:</p> <ul style="list-style-type: none"> MSMS must be used as primary tool to manage health and safety risks by the mine operator. Mine operator must develop, maintain and implement MSMS. No mining operations to take place without an established and implemented MSMS. MSMS to deal with current operations. MSMS must be appropriate to mining (including exploration) operations depending on: <ul style="list-style-type: none"> Nature; Complexity; Location. <p>The MSMS must be:</p>	<p>not even want the previous MSMS.</p> <p>4. Will there be further information or training on the MSMS?</p> <p>Post-workshop comments</p> <p>5. The DMP notes referred to an "approval" is it an approval or endorsement? Need to be clear. (Adi LaBombard, CME)</p> <p>6. How will the issues raised as part of this discussion be addressed in the drafting instructions? (Adi LaBombard, CME)</p> <p>7. We agree that mine operators are in the best position to establish their own Mine Safety Management System which is to be used as the primary tool to manage the health and safety risks existing at their operations; this also enables them to maintain the currency of the system as mining operations progress. (Patrick Gilroy, OHSA)</p> <p>8. We support the involvement of supervisors and workers who are exposed to risks on a daily basis in the development and review of the MSMS. (Patrick Gilroy, OHSA)</p> <hr/> <p>Post workshop comment from UnionsWA</p> <ul style="list-style-type: none"> <i>Reinforcing the point above, while it's understandable that the MSMS is not required to be in a single document, there does need to be a requirement that all information is easily accessible and in a single location.</i> <i>What requirement is there that the information is assessable by workers & HSR's?</i> <i>Can only an inspector instigate a review of the MSMS? What about a HSR? The MSMS will have been created before work begins onsite, HSR's and workers more broadly need an ongoing avenue of review and appeal.</i> 	<p>complexity and size of the mining operation. For example, a simple small operation will only need an appropriate, simple MSMS with less detail.</p> <p>2. If the operation is a mine then the MSMS is required to be on site. However, if it is an exploration activity, the MSMS can be at the office in WA.</p> <p>3. This is a good point and will be considered further. However, it is important that detail of site hazards is available to a new operator. As stated earlier, any commercially sensitive information will not be required to be passed on to the new mine operator. The proposed provision will be amended accordingly.</p> <p>4. Yes. There will be a guideline on safety management systems. There will also be operating guidance and training for inspectors. A team has already been formed within the Department to develop guidance for small mine operators.</p> <p>Response to post-workshop comments</p> <p>5. Noted – have clarified the references to "approval" in the notes in the first column.</p> <p>An 'Outline of MSMS' is required as part of the approval process for a mining operation. The term and contents of 'Outline of MSMS' are defined and prescribed in the Regulations. It is not to be confused with MSMS. The MSMS itself is not approved by DMP. No mining operations can take place without an established and implemented MSMS.</p> <p>6. The Department response to all comments and suggestions will be circulated to the industry and other stakeholders. (This document covers these responses). It will form part of the RIS.</p>

Key changes	Issues raised by stakeholders	DMP response
<ul style="list-style-type: none"> • A comprehensive and integrated system to manage all risks associated with the mine and mining operation • Maintained to remain effective • Revised and maintained in consultation with relevant workers • Documented and will be part of mine records <p>The electronic record book will be part of the mine records, so that records are maintained and may be passed on as historical records from one mine operator to another.</p>		<p>7. N/A</p> <p>8. N/A</p>
MSMS Contents		
<p>MSMS contents:</p> <ul style="list-style-type: none"> • Safety and health policy and goals • Description of works • Risk management • Principal hazard management plans (PHMPs) • Principal control plans (PCPs) • Plans, systems, procedures and other control measures • Management and supervision • Induction, information, training, instructions • Contractor management • Resources for MSMS <p>The MSMS sets out the mine operator's health and safety policy and the goals they wish to achieve. These goals are high-level concepts.</p>	<ol style="list-style-type: none"> 1. Why is there a Principal Hazard Management Plan and a Principal Control Plan? Are two separate plans needed? 2. A number of the hazard controls will be captured in an operation's Principal hazard standard or PHMP. By adding the PCP, another level of complexity is added and will add to confusion? <p>There is new guidance on control from the International Council on Mining and Metals (ICMM), which should be considered when considering these provisions</p> <p>For example, take explosives management and call it an explosives management standard; with three different sites, the PHMP will describe how explosives are managed on each of those sites, but the standard is exactly the same.</p> <ol style="list-style-type: none"> 3. Can two or more mines have one PHMP or PCP? <p>Post-workshop comments</p> <ol style="list-style-type: none"> 4. Consensus at the meeting was that prescribing both PCPs and PHMPs could create unnecessary complexity. (Adi LaBombard, CME) 5. How will the issues raised as part of this discussion be addressed in the drafting instructions? (Adi LaBombard, CME) 	<ol style="list-style-type: none"> 1. These two plans originate from the National Mines Safety Framework (NMSF). <p>On mine sites certain hazards have been identified as principal hazards. The principal hazard management plan (PHMP) then defines how the mining operation will deal with each principal hazard. Special attention is given to these hazards.</p> <p>The MSMS covers management of risk with all hazards, including principal hazards. Principal control plans (PCPs) are directed towards management of vital systems of mining operations and do not focus on specific hazards.</p> <p>These systems are managed under PCPs to achieve defined targets and outcomes to run the mine safely. For example, an explosives PCP will define how to procure, store, use and dispose of explosives; it does not only cover the explosion as a hazard but all aspects of managing explosives.</p> <ol style="list-style-type: none"> 2. If a hazard has been dealt with in one document it need not be repeated in other documents – only a reference need be given. It is also possible to merge two or more documents if the nature and size of the mine

Key changes	Issues raised by stakeholders	DMP response
	<p>6. RE: Level of detail of MSMS 'safety and health goals' and their purpose: Given these are intended to be aspirational high level objectives and not specific meaningful targets as noted during this discussion, CME questions the need to require these be included in the MSMS, and then essentially repeated in each subsequent MSMS. (Adi LaBombard, CME)</p>	<p>allows it.</p> <p>3. Common elements can be the same in the two documents but site specific hazards must also be addressed.</p> <p>Response to post-workshop comments</p> <p>4. The Department has considered the suggestion and decided that PCP will not be required in the MSMS.</p> <p>5. See earlier response.</p> <p>6. These goals need to be clearly defined so that a meaningful MSMS can be developed. Further guidance can be provided in CoP/Guideline — to be developed in consultation with stakeholders.</p>
Risk Management		
<p>Need suitable methods for:</p> <ul style="list-style-type: none"> Hazard identification Risk assessment <p>Control measures need to:</p> <ul style="list-style-type: none"> be considered and selected refer to: <ul style="list-style-type: none"> Design principles Engineering standards <p>NOTE: Most Australian standards will be removed from the WHS (R) Regulations. However, a mining operation should indicate in their MSMS to which standards or design principles the designs are compliant. All of these details are referenced within the MSMS.</p> <ul style="list-style-type: none"> include details of: <ul style="list-style-type: none"> Practices Procedures Planning Design calculations 	<p>1. Is a register of all considered controls needed? Would justification of all possible controls be beneficial, as opposed to selectively justifying those controls that are considered? For example, justifying one engineering control over another may not be particularly beneficial.</p> <p>Post-workshop comments</p> <p>2. Do not consider the DMP response captured here [in the column on the right] fully addresses the issue raised. Appreciate the intent, however, industry's concern is that prescribing 'all controls' considered to be listed with explanation could create significant administrative burden with little benefit.</p> <p>Industry considers a requirement to justify one control over another would be unwieldy and adds to the opportunity for disagreement and dispute given what is practical for one set of circumstances may not be practical for others (e.g. Cross commodity, business scope and scale etc.)</p> <p>Recommend it be clarified. This does not need to be an exhaustive list, however, MSMS should provide</p>	<p>1. This is related to duty of care and the level of control needed for the hazards and risks at an operation. It is important that the right control is implemented rather than just any control, and that it was reasonably practicable to do so.</p> <p>The MSMS should identify what controls have been considered and whether they have been implemented or not. Reasons for rejecting any particular control should also be specified.</p> <p>Response to post-workshop comments</p> <p>2. A quality risk management approach is the key to the proposed legislation. To achieve this objective, details of controls, following the hierarchy of controls, considered and selected is vital. This should be part of any risk management process.</p> <p>3. See earlier response.</p>

Key changes	Issues raised by stakeholders	DMP response
	<p>information on how the hierarchy of control was applied and where a higher order control not selected that information on the controls considered be listed. (Adi LaBombard, CME)</p> <p>3. What changes will be made to the provisions in the regulations to address these issues following the workshop discussion? (Adi LaBombard, CME)</p>	
Principal Hazard Management Plan (PHMP)		
<p>'Principal hazard' is an activity, process, plant, structure, substance, situation, or other circumstances relating to the carrying out of mining operations that has a reasonable potential to result in multiple deaths in a single incident or a series of recurring incidents.</p> <p>PHMPs relate only to deaths, not injuries.</p> <p>There are a number of prescribed PHMPs:</p> <ul style="list-style-type: none"> • Ground failure • Inundation or inrush of any substance • Failure of winding system • Collision with mobile equipment • Heat, dust or other airborne contaminants • Fire or uncontrolled explosion • Gas outburst • Ionising radiation • A hazard identified by the mine operator <p>NOTE:</p> <ul style="list-style-type: none"> • Operator has a duty to identify the applicable PHMPs and PCPs • Two or more plans can be combined • Where required, these must relate to other plans <p>Principles applicable to the development of the MSMS also apply to the development of PHMP.</p>	<p>Post-workshop comments</p> <ol style="list-style-type: none"> 1. See comments under MSMS - prescribing both PCPs and PHMPs could create unnecessary complexity. (Adi LaBombard, CME) 2. We recognise that prescribed Principal Hazard Management Plans are, for the most part, relevant only to underground mining and suggest that some mention of this would eliminate some of the complaints about duplication of PHMP's and Principal Control Plans. (Patrick Gilroy, OHSA) 	<p>Response to post-workshop comments</p> <ol style="list-style-type: none"> 1. Agreed. PCP will not be included in the MSMS. 2. See comment above.

Key changes	Issues raised by stakeholders	DMP response
Principal Control Plans (PCPs) <p>'Principal Control Plan' (PCP) is a document detailing management principles, plans, procedures, and practices to be adopted by the mine operator to manage, so far as is reasonably practicable, health and safety of persons associated with a specific part or system of mining operation.</p> <p>Some PCPs have been prescribed:</p> <ul style="list-style-type: none"> • Mechanical engineering control plan • Electrical engineering control plan • Underground ventilation control plan • Explosives control plan • Health control plan: The health control plan relates to an operation's occupational hygiene management plan, which includes testing and sampling. It may depend on what minerals are being mined or what chemicals are being used. • Construction control plan • Emergency response control plan. <p>Electrical and mechanical engineering control plans can be captured under a single engineering control plan but it will depend on the size and nature of the mine.</p> <p>If the PCP covers most of the elements that constitute a PHMP then it does not need to be repeated in a PHMP. What documents can be merged will depend on size and complexity of the mining operation.</p>	Post-workshop comments <ol style="list-style-type: none"> 1. See comments under MSMS - prescribing both PCPs and PHMPs could create unnecessary complexity. (Adi LaBombard, CME) 2. The Society is concerned that discussion of Health Control Plan was treated lightly as if it posed no real challenge. The Work Health and Safety (Mines) Regulations 2014 (NSW) to which it is assumed the Western Australian Act will align, says: <i>Health Control Plan: "The mine operator of a mine must prepare a health control plan for the mine that sets out the means by which the mine operator will manage the risks to health associated with mining operations at the mine."</i> <p>This very important requirement needs appropriate emphasis as it will have a strong connection with the requirement to conduct health monitoring of workers. It is also important that there is direct involvement of the workforce in the development of the Health Control Plan.</p> <p>The Society considers that these matters are essential the ultimate success of the new Act. (Patrick Gilroy, OHSA)</p>	Response to post-workshop comments <ol style="list-style-type: none"> 1. See earlier comments. 2. See earlier comments. <p>It is agreed that management of health related hazards need due consideration. As a PCP will not be required in the MSMS, specific regulations requiring comprehensive management of these issues will be included in the legislation. It will cover identification of hazards, monitoring of environment and, where required, health assessments.</p>
Management and supervision <p>The current MSIA Section 44 will no longer exist. Under the new WHS (Resources) Regulations, the mine operator will decide the management and supervision requirements for the mine. The MSMS will need to cover the following:</p> <ul style="list-style-type: none"> • Organisational structure: There is a requirement that the mining operator will provide details of the organisational structure. The legislation will not state what appointments must be made. It is up to the mine operator to define what 	<p>No issues raised.</p>	<p>N/A</p>

Key changes	Issues raised by stakeholders	DMP response
<p>structure they will have.</p> <ul style="list-style-type: none"> Responsibilities: For supervisors and others Competencies required by supervisors will be reinforced Type, frequency and method of supervision Details of how supervisory positions are maintained/filled 		
Maintaining competency		
<p>Operators need to maintain competency by providing:</p> <ul style="list-style-type: none"> Information Induction Training Instructions 	No issues raised.	N/A
Change management		
<p>Gradual or sudden change in:</p> <ul style="list-style-type: none"> Operations Conditions Systems Environment Resources 	No issues raised.	N/A
Communication		
<p>Operators need a procedure for effective communication – across shifts by workers, supervisors and other relevant persons.</p> <p>The systems in place should be indicated within the MSMS.</p>	No issues raised.	N/A
Contractors		
<p>Contractor must:</p> <ul style="list-style-type: none"> seek approval of their SMS from the mine operator or operate under MSMS of the mine operator <p>Mine operator must provide 'all relevant information and access to mine' to contractors for identification of hazards and</p>	<ol style="list-style-type: none"> Is the mine operator approving the contractor's work methodologies or their work plan? Can the approval of a contractor covering multiple sites be done centrally? Does a contractor need to review their SMS? <p>Post-workshop comments</p>	<ol style="list-style-type: none"> To ensure the contractor can do the job safely, the mine operator will decide the level of detail it wants to review before approving the SMS. The MSMS is site specific, and even though most aspects may be the same, there will be certain aspects of each site that requires the MSMS to be dealt with at site.

Key changes	Issues raised by stakeholders	DMP response
<p>associated risks.</p> <p>Contractor also must provide 'all relevant information' to mine operator for assessment of risks associated with the proposed work.</p>	<p>4. Does the contractor require <i>approval</i>, or <i>endorsement/acceptance</i> from the mine operator? (Adi LaBombard, CME)</p> <p>5. RE: DMP's response to item 1: How will the provisions in the regs reflect this intent? (Adi LaBombard, CME)</p> <p>6. RE: DMP's response to item 2: Can this intent be achieved as part of the legislative requirement for consultation between contractors and principal PCBUs rather than prescribing separate MSMS for each site?</p> <p>Additionally if the contractor is covered under the Site MSMS, does this requirement not apply? (Adi LaBombard, CME)</p> <p>7. What changes will be made to the provisions in the regulations to address these issues following the discussion during the workshop?</p>	<p>3. As with a mining operating, if the contract extends more than three years then the contractor will need to review their SMS.</p> <p>Response to post-workshop comments</p> <p>4. As stated in column 1, the contractor must either:</p> <ul style="list-style-type: none"> accept and follow the MSMS of the mine operator provided it covers all aspects of the job, or develop a SMS for the job and get an approval from the mine operator. <p>5. The provisions will be drafted by PCO based on the intent of the Drafting Instructions.</p> <p>6. The mine operator can approve a contractor's SMS for multiple sites provided the nature of the job and hazards are exactly the same. The legislation will not prohibit it.</p> <p>7. The Drafting Instructions to PCO will cover the proposed intent.</p>
Reviewing MSMS		
<p>The MSMS must be reviewed:</p> <ul style="list-style-type: none"> Within first 12 months of commencement for new mines Once every 3 years As necessary <p>Review must include consultation with workers or their representatives</p>	No issues raised.	N/A
Adequacy of MSMS		
<ul style="list-style-type: none"> When requested, MSMS must be made available to an inspector. If considered deficient, an inspector may, by stating the reason, ask for review of part of MSMS. If implementation of MSMS found inadequate, a notice under s. 191 may be issued by an inspector. 	No issues raised.	N/A

Key changes	Issues raised by stakeholders	DMP response
Duty holder role in risk management process		
Duty holder must: <ul style="list-style-type: none"> • identify all reasonably foreseeable hazards • eliminate risks – so far as is reasonably practicable • if above not possible, minimise those risks – so far as is reasonably practicable. 	No issues raised.	N/A
Reasonably practicable		
Having regard to: <ul style="list-style-type: none"> • severity, and • likelihood of potential injury or harm, and State of knowledge of: <ul style="list-style-type: none"> • injury or harm • likelihood of occurring • means of removing or mitigating, and • availability, suitability, and cost of means. 	No issues raised.	N/A
Prescribed legislation		
Any specific requirements under the Act and Regulations must be complied with. Requirements determined out of the risk management process must be over and above prescribed legislation.	No issues raised.	N/A
Hierarchy of control measures		
Hierarchy of control measures: <ul style="list-style-type: none"> • <i>Eliminate</i> risk; • If not reasonably practicable then - <ul style="list-style-type: none"> ◦ <i>Minimise</i> risk, so far as reasonably practicable Minimise by: <ul style="list-style-type: none"> • <i>Substituting</i>, wholly or partly, hazard causing risk resulting in lesser risk 	No issues raised.	1. N/A

Key changes	Issues raised by stakeholders	DMP response
<ul style="list-style-type: none"> • <i>Isolating</i> hazard from person • Implementing <i>engineering</i> controls <p>Minimise remaining risk, so far as is reasonably practicable, by implementing <i>administrative</i> controls</p> <p>Minimise remaining risk, so far as is reasonably practicable, by ensuring provision and use of suitable <i>PPE</i></p> <p>If a single control is not sufficient for the purpose, a combination of controls can be used, maintaining hierarchy of control.</p>		
Risk assessment		
<ul style="list-style-type: none"> • Persons to be competent for the method of risk assessment. • Must select appropriate method of risk assessment. • Must take into account site specific factors. 	No issues raised.	N/A
Duty holder and control measures		
<p>Duty holder must ensure that control measure is maintained so that it is and remains effective and is:</p> <ul style="list-style-type: none"> • Fit for purpose • Suitable for nature and duration of work • Installed, set up, and used correctly <p>Duty holder must review and as necessary revise control measures to maintain, so far as is reasonably practicable, work environment without risk</p>	No issues raised.	N/A
Review and revise control measures		
<ul style="list-style-type: none"> • If measure does not control risk it was implemented to control • Before a change that may give rise to new or different risk • A new hazard or risk is identified • Result of consultation indicates that a review is necessary • A safety and health representative requests a review <p>A safety and health representative may request a review of</p>	No issues raised.	N/A

Key changes	Issues raised by stakeholders	DMP response
<p>control measures if representative reasonably believes that:</p> <ul style="list-style-type: none"> Any reason stated earlier affects or may affect a member of group represented, and Duty holder has not adequately reviewed the control measure 		
Other post-workshop comments		
	<ol style="list-style-type: none"> We support the proposals in principle. (Pat Gilroy, OHSA) What changes will be made to the provisions in the regulations to address these issues following the discussion during the workshop? (Adi LaBombard, CME) It appears that very little further action has been identified to address feedback provided. One example - the concerns that were raised around having to justify the rejection of controls (administrative burden for little value add to safety) still remain if the legislation remains as is written however the notes from the workshop suggest that the discussion addressed these concerns and no further action will be taken. This appears to be the case with most of the feedback provided. Are you able to clarify if any of the feedback will be considered when drafting the new regulations? (Adrian Vujcic, Rio Tinto) 	<ol style="list-style-type: none"> N/A See earlier comments. See earlier comments.



Statutory Positions Workshop Report

Background

The Work Health and Safety (Resources) legislation will consolidate safety provisions under one Act and one set of regulations, covering mining, petroleum and major hazard facilities (MHFs). While improving consistency across the resources industries, the proposed legislation will not take a “one size fits all” approach. With the resources safety legislation being less prescriptive, innovation and new technologies can be engaged to improve safety outcomes.

The Department of Mines and Petroleum’s (DMP’s) Bill is based on the national model WHS Act, but the supporting regulations will be customised to suit Western Australia.

DMP committed to a full and open consultation process during development of the proposed Work Health and Safety (Resources) legislation.

Consultation on the proposed content of the Bill has been completed and it is currently being drafted by Parliamentary Counsels Office. Consultation on the supporting regulations has commenced.

This workshop covered Statutory Positions in the regulations, affecting the mining industry.

The Australasian Mining Competency Advisory Council (AMCAC) was established in late 2015 and will work with all mining jurisdictions to achieve consistent competency standards.

Objectives

The key principles for the safety legislation reform are:

- modernising, consolidating and simplifying legislation
- removing prescription and duplication
- providing consistency across different industry sectors
- using codes of practice and guidelines for further guidance and detail.

Workshop consultation process

Member groups on the Ministerial Advisory Panel for Safety Legislation Reform (MAP) were asked to invite representatives from industry, unions and the regulator to participate in a workshop held on 10 March 2016, with 23 people attending.

Briefing papers were provided prior to the workshop. To assist in finalising policy positions, attendees were requested to provide reasons and evidence to support alternatives to the proposed concepts. After the workshop, meeting notes were prepared and distributed to attendees for comment and written submissions were also encouraged.

Stakeholders will have further opportunities to comment on the proposed legislative changes through MAP; other workshops and stakeholder meetings; additional written submissions to DMP; and the Regulatory Impact Statement (RIS) public consultation process on the regulations in mid-2016.

Final drafting of the regulations will be controlled by the Parliamentary Counsel’s Office.

Current legislation and requirements

The current mine safety provisions are contained within the *Mines Safety and Inspection Act 1994* (MSIA) and Mines Safety and Inspection Regulations 1995 (MSIR).

The MSIA and MSIR require appointment of statutory persons for management, supervision, and some prescribed functions. These can be classified as:

- Certificated positions – holder of certificate issued under MSIA/MSIR
- Positions with prescribed qualification and experience.

The current legislation requires notifications of most Statutory Position appointments to the District Inspector (DI), who is required to acknowledge them. This creates unnecessary administrative burdens for industry and the DMP.

Currently, potential job candidates must wait for a Board of Examiners to convene a meeting, before their competencies can be assessed. Each of the five Boards meets twice per year.

Certified positions

POSITION	MINIMUM CERTIFICATE REQUIRED*
Underground manager of a mine employing 25 or more persons	First class mine manager certificate**
Underground manager of a mine employing fewer than 25 persons	Underground supervisor certificate
Underground supervisor – non-coal	Underground supervisor certificate
Underground supervisor – coal	Deputy's certificate
Quarry manger of an opencast mine employing 25 or more persons	Quarry manager certificate
Quarry manager of an opencast mine employing fewer than 25 persons	Restricted quarry manager certificate
Quarry manager of an opencast mine where explosives are not used	Restricted quarry manager certificate endorsed 'Non-explosive'
Surveyor for underground mine	Authorised mine surveyor – grade 1
Surveyor for open pit mine	Authorised mine surveyor – grade 2
Winding engine driver for a winder with any power input more than 75KW	Winding engine driver's certificate – Class I
Winding engine driver for winder with power input exceeding 25KW but not exceeding 75KW	Winding engine driver's certificate – Class II

*Person with a higher level certificate can perform a lower level function

**Separate certificate issued for underground coal mines

The legislation establishes the following Boards for issuing of these certificates:

- Board dealing with first class mine manager's and underground supervisor's certificates
- Board dealing with first class mine manager's (coal) and deputy's certificates
- Board dealing with quarry manager's certificates
- Board dealing with authorised mine surveyor's certificates
- Board dealing with winding engine driver's certificates.

Positions with prescribed qualification and experience

These positions do not require a statutory certificate issued by a Board but may require prescribed qualification, experience or certificate issued under other legislation. These are:

- Electrical supervisor
- High voltage operator
- Electrician
- High risk operators
- Ventilation officer – surface mines
- Ventilation officer – underground mines
- Noise officer
- Radiation safety officer.

There is no prescribed qualification or experience for the statutory position of registered manager and exploration manager.

Proposed requirements under the Work Health and Safety (Resources) legislation

While qualifications and competencies will remain or be strengthened in the new legislation, this workshop considered the appropriateness of “certificates of competency”. This will be achieved by:

- prescribing qualifications similar to current requirements
- prescribing experience – more than the current requirements for some positions
- requiring knowledge of ‘risk management’
- assessment of knowledge of legislation.

DMP considers that a resources operator knows what is required for their particular operation and they should be able to appoint the appropriate person, provided that person meets the prescribed requirements in the legislation. The mine operator will be responsible for appointing suitably qualified and competent persons to their operation in order to maintain the safe operation of the mine site and ensure the safety and health of all workers on site.

The petroleum industry, which operates in a high-consequence risk environment, does not use Boards of Examiners. The HSE in the UK has moved away from Boards of Examiners and the DMP is considering something similar.

Under the WHS (Resources) legislation, the site’s Mine Safety Management System (MSMS) will describe the overall management structure, including the types of Statutory Positions required. There will not be a position of District Inspector, so if a person is appointed to a Statutory Position, the Site Senior Executive should be notified. Mine records in the Safety Regulation System (SRS) will also be updated by the operator.

Guiding Principles

The following principles were followed while preparing this proposal for legislative reform on statutory positions:

- **Safety standards must improve or at least remain the same:** In deciding the competencies of statutory position holders it is ensured that qualification, experience and/or training as prescribed in the current legislation is not reduced.
- **Reduced administrative burden:** As part of the legislative reform process the Department proposes to review the duties of Boards of Examiners. DMP proposes to host computer-based supervised applicable legislation examinations at one of the DMP offices when required by potential candidates, rather than having to wait for Board of Examiners to convene a meeting. The outcome of the examination will be decided by the system and made known to the candidate with

no delay. These examinations can be conducted more frequently and the candidates will not have to wait as happens currently.

- **Mine operators to have more say in selecting the competent persons:** The legislation will provide broad parameters for the qualification and experience of the statutory positions. Within those guiding parameters the mine operators will be able to select the most suitable person to meet the specific requirement for that mine.
- **More emphasis on improving health and safety risk management skills of statutory position holders:** The most important change in the proposed legislation is to minimise prescription and manage hazards using basic principles of risk management. It is therefore vital that managers, supervisors and other responsible persons have a good understanding of risk management principles.

The Department will check the qualification and experience of a candidate before they appear for the computer-based legislation examination.

The statutory position information will be maintained on SRS and audited by the Department.

Summary of Issues

In view of the above it is proposed to:

- List the requirement of basic qualification for the statutory positions that are generally in line with current requirements.
- List the required experience for the other statutory positions.
- Give mine operators flexibility to select the best candidate for a statutory position within the prescribed parameters.
- Require key position holders to have knowledge of applicable safety legislation.
- Require key position holders to have knowledge of health and safety risk management principles as these apply to the mining industry.
- Provide guidance to the industry for consistency.

Recommendation:

That the:

- **Ministerial Advisory Panel notes the feedback from the workshop; and**
- **DMP consider this information when developing the proposed Work Health and Safety (Resources) legislation for Western Australia.**

Key changes discussed

Registered Manager (RM) / Site Senior Executive (SSE)

Current requirements	Proposed requirements	Issues raised by stakeholders	DMP response
<p>Appointment: To be appointed by Principal Employer (PE) and notified to District Inspector (DI) within 24 hours; to be confirmed in writing within 7day. DI to acknowledge in writing</p> <p>Alternates also to be notified and acknowledged.</p>	<p>Appointment: Mine Operator (MO) to appoint SSE and notify regulator before commencement of mining operation and then every change in the prescribed form.</p> <p>If SSE incapacitated or absent for more than 3 days alternate with similar requirements to be appointed.</p> <p>For 3 or fewer days a competent person can be appointed as deputy.</p> <p>Log of alternates and deputies to be maintained in the Mine Record Book.</p>	<ol style="list-style-type: none"> Attendees discussed the wording, e.g. "absent for more than 3 days". Wording in the regulations should not inhibit daily work practices. For example, a mine manager may manage two sites and should not be seen as being 'absent' from either site when they are in direct control of both. Suggestion for consideration: Remove reference to time period of absence, e.g. 3 days <p>Post-workshop comments:</p> <ol style="list-style-type: none"> Consider if this provision (requiring coverage during a period of absence) is included in the regulations a definition of 'absent' must also be included in the regulations for clarity of interpretation. <p>However, CME's preference is for provisions relating to alternates and periods of absence to be removed and shifted to guidance material. As noted in the notes below, regulations should focus on the required outcome (adequate management and supervisory systems to ensure health and safety and a single point of contact in the event of an issue) rather than a prescriptive alternate/deputy appointments process.</p> <p>Reference should be made in the MSMS as to the management and supervisory structure and how any period of absences for key positions will be managed. (Adi LaBombard, CME)</p>	<p>1 and 2: Agreed.</p> <p>Reference to 3 days will be removed from the regulation.</p> <p>In its place, a provision will be added requiring MO to appoint another person with prescribed qualification and experience if SSE is not able to perform its duties</p>
<p>Primary functions: Responsible on a daily basis for the control and supervision. Applicable to all mines except exploration operations.</p>	<p>Primary function: Provide immediate control and management of the mine and mining operations at the mine in accordance with the Act and these Regulations. Applicable to all mines except exploration operations.</p> <p>The Site Senior Executive (SSE) is the appointee providing immediate control and management of the mine and mining operations at the mine.</p>	<ol style="list-style-type: none"> Tighten definition of SSE to define whether appointee should be on site or only in direct control <p>Post-workshop comments:</p> <ol style="list-style-type: none"> A question has been raised by some of our members whether the existing position of 'Processing Plant Manager' will now fit under the definition of SSE. If so, can this be clarified in some way? (Adi LaBombard, CME) As a general note, it would be useful for the information material to list a full set of accountabilities for this and other key role including for the SSE any of those prescribed by the WHS R and by other provisions in the legislation. <p>For example, does the SSE have a prescribed role in notification of incidents and also in the implementation or oversight of the MSMS? (Adi LaBombard, CME)</p> <ol style="list-style-type: none"> Regarding the above suggestion for consideration, CME members prefer the emphasis to be 'control' rather than physical presence (Adi LaBombard, CME) 	<ol style="list-style-type: none"> SSE is defined in the Act: "SSE means the most senior natural person appointed, as prescribed in the regulation, to represent the resources facility operator located at or near the resources facility." See Appendix for duties of SSE, exploration manager, underground manager and quarry manager. Any natural person can be SSE provided it meets the requirements: <ol style="list-style-type: none"> in the definition of SSE of duties of SSE. See Appendix. Also there will be some additional duties prescribed in different chapters of the regulations – similar to the MSIR. See comments above.

Current requirements	Proposed requirements	Issues raised by stakeholders	DMP response
<p>Prescribed by legislation</p> <p>Qualification: None</p> <p>Experience: None</p> <p>Certificate: None</p>	<p>Prescribed by legislation</p> <p>Qualification: Successfully completed regulator recognised:</p> <ul style="list-style-type: none"> – course in H&S risk management – examination in WA H&S mines legislation. <p>Courses will be specified through MIAC and invigilated by the DMP.</p> <p>Experience: None</p> <p>Certificate: None</p>	<p>Considering the hazardous environment of a mining operation, all senior statutory positions must have specific, predefined experience.</p> <p>Levels of risk vary according to the complexity and size of an organisation.</p> <p>Suggestions for consideration:</p> <ol style="list-style-type: none"> 1. Define experience for SSE 2. Define applicable courses on risk management and applicable WA legislation. <p>Post-workshop comments:</p> <ol style="list-style-type: none"> 3. It has also been suggested the qualification be amended slightly to accommodate: Diploma in mining (mineral processing) or engineering from any recognized Australian Technical Institute (Adi LaBombard, CME) 4. In relations to 1 and 2 above, some CME members have suggested additional experience recommendations be added in guidance material, to include: <ul style="list-style-type: none"> – a minimum length of time working directly on a mine site or operation – formal business or management qualifications (Advanced diploma and above) – for Risk Management, suggest Applicable courses could include: RIIRIS601D Establish and Maintain the Risk Management System (G3). 	<ol style="list-style-type: none"> 1. Agreed. SSE will need to have a minimum 2 years' experience on a mine site. 2. Risk management course – as approved by MIAC. <p>Applicable legislation – the type and nature of the examination as approved by MIAC.</p> <ol style="list-style-type: none"> 3. While MOs of larger mines can select persons with similar qualifications, it will be impractical to impose this requirement on a SSE of a very small mine. There are mines where only 2 persons are employed. 4. See response above.

Exploration Manager

Current requirements	Proposed requirements	Issues raised by stakeholders	DMP response
Appointment: To be appointed by PE and notified to Senior Inspector (SI). Exploration operations adjoining a mining operation can be under the control of the Registered Manager.	Appointment: MO to appoint and notify regulator before commencement of exploration operations and then every change in the prescribed form. Exploration operations in close vicinity of a mining operation can be under the control of the SSE.	No issues raised	N/A
Primary functions: Responsible for the control of exploration operation.	Primary function: Responsible for the control and management of exploration operation.	No issues raised	N/A
Prescribed by legislation Qualification: None Experience: None Certificate: None	Prescribed by legislation Qualification: Successfully completed regulator recognised: - course in H&S risk management - examination in WA H&S mines legislation. Experience: None Certificate: None	Discrepancies exist for an exploration operation where an Exploration Manager and supervisor are both appointed. The Exploration Manager requires no experience to be appointed, but the supervisor requires 2 years' experience. Suggestions for consideration: <ul style="list-style-type: none"> Define qualification and experience requirements for Exploration Manager 	A minimum 2 years' experience in exploration or mining operations will be added.

Person responsible to the owner for management of activities of exploration operation

Current requirements	Proposed requirements	Issues raised by stakeholders	DMP response
Appointment: PE must notify the SI	Appointment: Not required (To be covered by site supervision)	No issues raised	N/A
Primary functions: Management of all activities at exploration operations	Primary function: Not required (To be covered by site supervision)	No issues raised	N/A
Prescribed by legislation Qualification: None Experience: None Certificate: None	Prescribed by legislation Qualification: NA Experience: NA Certificate: NA	No issues raised	N/A

Underground manager – mines employing 25 or more persons (other than underground coal mines)

Current requirements	Proposed requirements	Issues raised by stakeholders	DMP response
<p>Appointment: PE to appoint and notify DI.</p> <p>For commute operations alternate required. Alternates to be notified. All to be acknowledged by DI.</p> <p>If underground manager (UGM) or alternate is incapacitated or absent, deputy can be appointed for up to 4weeks.</p> <p>If authorised RM can make these appointments.</p>	<p>Appointment: MO to appoint and maintain a log in the Mine Record Book including alternates and deputies, if any.</p> <p>If UGM incapacitated or absent for more than 3 days alternate with similar requirements to be appointed.</p> <p>For 3 or fewer days a competent person can be appointed as deputy.</p> <p>If authorised SSE can make these appointments.</p>	<p>Suggestions for consideration:</p> <p>Remove reference to time period of absence, e.g. 3 days</p>	<p>Agreed. If UGM is not able to perform duties another person with prescribed qualification and experience must be appointed. See Appendix for duties of underground manager.</p>
<p>Primary functions: Responsible for control and supervision of underground mining operations on a daily basis.</p>	<p>Primary function: Responsible for immediate direction and control of underground operations.</p>	<p>No issues raised</p>	<p>N/A</p>
<p>Prescribed by legislation</p> <p>Qualification: See below</p> <p>Experience: See below</p> <p>Certificate: First class mine manager's certificate issued by the Board formed under the MSIA.</p> <p>To obtain this certificate one must have:</p> <ol style="list-style-type: none"> 1. A degree of B.E. in mining from any Australian university or such other qualification as the Board may in any case considered equivalent to the degree referred to above. 2. Passed examination set by the Board in mining law 3. Age of 25 years 4. 5 year experience in or about a mine of which 3 year must be underground 5. Good character 6. Satisfactory first aid training <p>For point 4 above practical experience must have:</p> <ol style="list-style-type: none"> (i) 3 months rock drill – development and stoping (ii) 3 months explosives (personal) – charging and firing – development and stoping (iii) 6 month full time underground employment covering ground support, haulage and transport, general mine servicing. 	<p>Prescribed by legislation</p> <p>Qualification: Degree in mining engineering from any Australian university or a certified equivalent degree by an agency approved by the regulator.</p> <p>Successfully completed regulator recognised:</p> <ul style="list-style-type: none"> – course in H&S risk management – examination in WA H&S mines legislation. <p>Experience: 5 year experience in or about a mine of which 3 year must be in underground mine/s and must include minimum of 3 months personal experience in each of the following activities:</p> <ul style="list-style-type: none"> – Ground support – Use of explosives – Mine ventilation – Mine planning – Mine transport and services – Mine rescue <p>Certificate: None</p> <p>Note: All experience in the proposed legislation will be recorded in the format approved by the regulator and copy presented to the MO before being appointed to the statutory position.</p>	<ol style="list-style-type: none"> 1. Most of the required experience is hands-on. Would it be better to be more involved in managing the activity? <p>Suggestions made for consideration:</p> <ol style="list-style-type: none"> 2. Remove reference to time period of absence, e.g. 3 days 3. Include drilling as an activity requiring experience 4. Change 'mine rescue' to 'emergency management' 5. Ensure 'certified equivalent degree or diploma' does not give scope to abuse of this clause. <p>Post-workshop comments:</p> <ol style="list-style-type: none"> 6. Further to Qualification requirements and comments under item 5 above, it should specify Degree of Bachelor of Engineering in Mining. It is suggested that this assessment is eligible to be done by any tertiary institution in Australia that offers the qualification Bachelor of Engineering in Mining and is Engineers Australia accredited to deliver such a program? Referring to 'a degree' as such may allow shorter programs (eg BSc) (MSc) with the name 'mining engineering' to become eligible. 	<ol style="list-style-type: none"> 1. The requirements cover minimum skills that must be had for every underground manager. Large mines will obviously have additional requirements for their UGMs. 2. Agreed. See response above. 3. Agreed. It will be added. 4. Agreed. 5. These will be approved based on assessment by approved agencies. MIAC will approve a list of agencies that can make this assessment. 6. It will be a 4-year degree in Mining Engineering from an Australian University. All other qualifications will have to be assessed by the approved agency.

Underground manager of mines employing fewer than 25 persons (other than underground coal mines)

Current requirements	Proposed requirements	Issues raised by stakeholders	DMP response
<p>Appointment: PE to appoint and notify DI.</p> <p>For commute operations alternate required. Alternates to be notified. All to be acknowledged by DI.</p> <p>If underground manager (UGM) or alternate is incapacitated or absent, deputy can be appointed for up to 4 weeks.</p> <p>If authorised RM can make these appointments.</p>	<p>Appointment: MO to appoint and maintain a log in the Mine Record Book including alternates and deputies, if any.</p> <p>If UGM incapacitated or absent for more than 3 days alternate with similar requirements to be appointed.</p> <p>For 3 or fewer days a competent person can be appointed as deputy.</p> <p>If authorised SSE can make these appointments.</p>	No issues raised	As stated above, reference to 3 days will be removed.
<p>Primary functions: Responsible for control and supervision of underground mining operations on a daily basis.</p>	<p>Primary function: Responsible for immediate direction and control of underground operations.</p>	No issues raised	N/A
<p>Prescribed by legislation</p> <p>Qualification: See below</p> <p>Experience: See below</p> <p>Certificate: Underground supervisor's certificate issued by the Board.</p> <p>To obtain this certificate one must have:</p> <ol style="list-style-type: none"> 1. Degree, diploma, or associate diploma in mining engineering from university, School of Mines, or Institute of Technology 2. Passed mining law exam set by the Board 3. 2 year underground employment <p>OR</p> <ol style="list-style-type: none"> 1. Passed mining practice and mining law examination set by the Board 2. 5 year underground employment <p>The underground employment stated above must have:</p> <ol style="list-style-type: none"> (i) 3 month drilling – development and stoping face (ii) 3 month personal experience charging and firing explosives – development and stoping (iii) 6 month underground support, haulage and transport, and general mining servicing work. 	<p>Prescribed by legislation</p> <p>Qualification: Successfully completed regulator recognised:</p> <ul style="list-style-type: none"> - course in H&S risk management - examination in WA H&S mines legislation. <p>Experience: 5 year experience in or about an underground mine and must include minimum of 3 months personal experience in each of the following activities:</p> <ul style="list-style-type: none"> – Ground support – Use of explosives – Mine ventilation – Mine planning – Mine transport and services – Mine rescue <p>Certificate: None</p> <p>Note: A person who qualifies to be manager of an underground mine employing more than 25 persons can obviously be manager of a mine employing fewer than 25 persons.</p>	(As per previous page)	As stated previously 'drilling' will be added. Mine rescue will be replaced by 'emergency management'.

Quarry manager of open pit mine employing 25 or more persons

Current requirements	Proposed requirements	Issues raised by stakeholders	DMP response
<p>Appointment: PE to appoint and notify DI.</p> <p>For commute operations alternate required. Alternates to be notified. All to be acknowledged by DI.</p> <p>If quarry manager (QM) or alternate is incapacitated or absent, deputy can be appointed for up to 4weeks.</p> <p>If authorised RM can make these appointments.</p>	<p>Appointment: MO to appoint and maintain a log in the Mine Record Book including of alternates and deputies, if any.</p> <p>If QM incapacitated or absent for more than 3 days alternate with similar requirements to be appointed.</p> <p>For 3 or fewer days a competent person can be appointed as deputy.</p> <p>If authorised by MO, SSE can make these appointments.</p>	<p>Suggestions made for consideration:</p> <p>Remove reference to time period of absence, e.g. 3 days</p>	<p>Agreed. See response above.</p>
<p>Primary functions: To control and supervise quarry operations on a daily basis.</p>	<p>Primary function: Responsible for immediate direction and control of quarry operations</p>	<p>No issues raised</p>	<p>N/A</p>
<p>Prescribed by legislation</p> <p>Qualification: See below</p> <p>Experience: See below</p> <p>Certificate: Quarry manager's certificate issued by the Board</p> <p>To obtain this certificate one must have:</p> <ol style="list-style-type: none"> (i) the Degree of Bachelor of Engineering from any Australian University; or (ii) a Diploma in Mining or Engineering from any recognized Australian Technical Institute; or (iii) an Associate Diploma in Surface Mining from any recognised Australian Tertiary Education Institution; (iv) a Degree or Diploma in Geology, or in mining or an earth sciences related discipline, that is considered by the Board to be appropriate; or (v) such other mining qualification as the Board may in any case consider to be equivalent to a qualification referred to in subparagraph (i), (ii), (iii) or (iv); <ol style="list-style-type: none"> Passed mining law examination set by the Board Age of 24 years 2 year experience in or about a quarry of which 1 year must be first hand practical experience including not less than 3 month personal experience in charging and firing of explosives. 	<p>Prescribed by legislation</p> <p>Qualification:</p> <ol style="list-style-type: none"> (i) the Degree of Bachelor of Engineering from any Australian University; or (ii) a Diploma in Mining or Engineering from any recognized Australian Technical Institute; or (iii) a certified equivalent degree or diploma by an agent approved by the Regulator. <ol style="list-style-type: none"> Successfully completed regulator recognised: <ul style="list-style-type: none"> course in H&S risk management examination in WA H&S mines legislation. <p>Experience: 3 year experience in or about a quarry and must include minimum of 3 months personal experience in each of the following activities:</p> <ul style="list-style-type: none"> Ground support Use of explosives - for mines where explosives are used Mine transportation and services Mine planning Mine rescue <p>Certificate: None</p>	<p>Suggestions made for consideration:</p> <ol style="list-style-type: none"> Specify 'mining' as the discipline of the Engineering Degree Ensure 'certified equivalent degree or diploma' does not give scope to abuse of this clause. Change 'mine rescue' to 'emergency management' <p>Post-workshop comments:</p> <ol style="list-style-type: none"> Further to the qualification requirements and suggestions 1 & 2 above: <p>It should specify Degree of Bachelor of Engineering in Mining. The proposed 'or Diploma in mining or engineering from any recognized Australian Technical Institute' should specify Diploma in mining engineering from any recognized Australian Technical Institute'</p> <p>This is suggested so as to reduce the variations in qualifications that could be presented and to ensure candidates have some relevant grounding in the core and key technical competencies associated with mining engineering and not some other un-associated branches of engineering.</p> <p>The proposed 'Equivalent qualification approved by regulator in consultation with MIAC' should refer rather to any tertiary institution in Australia that offers the qualification Bachelor of Engineering in Mining and is Engineers Australia accredited to deliver such a program.</p>	<ol style="list-style-type: none"> Agreed. See response to similar comment for UGM. Agreed. See response to 1. <p>Equivalent qualification will be accredited by agencies approved by MIAC. The comments are valid and will be considered while accrediting any agency.</p>

5. good character		This comment is offered on the experience of FCMM candidates presenting 'equivalence' letters from EA, DIAC, etc. who have not made any attempt to map the key and core competencies and learning outcomes of the degree - only that it was 4-years, thus it is 'engineering' of some sort.	
6. satisfactory training in first aid			

Quarry manager of an open pit mine employing fewer than 25 persons

Current requirements	Proposed requirements	Issues raised by stakeholders	DMP response
<p>Appointment: PE to appoint and notify DI.</p> <p>For commute operations alternate required. Alternates to be notified. All to be acknowledged by DI.</p> <p>If quarry manager (QM) or alternate is incapacitated or absent, deputy can be appointed for up to 4weeks.</p> <p>If authorised RM can make these appointments.</p>	<p>Appointment: MO to appoint and maintain a log in the Mine Record Book including of alternates and deputies, if any.</p> <p>If QM incapacitated or absent for more than 3 days alternate with similar requirements to be appointed.</p> <p>For 3 or fewer days a competent person can be appointed as deputy.</p> <p>If authorised by MO, SSE can make these appointments.</p>	No issues raised	<p>See earlier response.</p> <p>Reference to 3 days will be removed. It will be based on capability to fulfil the 'duties' requirements.</p>
<p>Primary functions: To control and supervise quarry operations on a daily basis.</p>	<p>Primary function: Responsible for immediate direction and control of quarry operations</p>	No issues raised	N/A
<p>Prescribed by legislation</p> <p>Qualification: None</p> <p>Experience: See below</p> <p>Certificate:</p> <ol style="list-style-type: none"> has passed relevant examinations set by the Board; has attained the age of 21 years; has had experience in quarry operations for a period of not less than 2 years, of which period at least one year has been first hand practical experience in production operations in a quarry or open pit, including at least 3 months personal experience in the charging and firing of explosives in the quarry or pit 	<p>Prescribed by legislation</p> <p>Qualification: Successfully completed regulator recognised:</p> <ul style="list-style-type: none"> course in H&S risk management examination in WA H&S mines legislation. <p>Experience: 3 year experience in or about a quarry and must include minimum of 3 months personal experience in each of the following activities :</p> <ul style="list-style-type: none"> Ground support Use of explosives – for mines where explosives are used Mine transportation and services Mine planning Mine rescue <p>Certificate: None</p>	(As per previous page)	

Surveyor for underground operations

Current requirements	Proposed requirements	Issues raised by stakeholders	DMP response
Appointment: Mine manager to record name of the authorised mine surveyor in the Mine Record Book	Appointment: Mine manager to record name and other details of the mine surveyor in the Mine Record Book.	No issues raised	N/A
Primary functions: Make and draw survey plans. Certify survey plans.	Primary function: Conduct surveys and prepare plans or supervise conducting of surveys and preparation of plans. Certify survey plans.	No issues raised	N/A
<p>Prescribed by legislation</p> <p>Qualification: See below</p> <p>Experience: See below</p> <p>Certificate: Authorised mine surveyor – Grade 1 issued by the Board.</p> <p>To obtain this certificate one must have:</p> <ol style="list-style-type: none"> qualification given below <ol style="list-style-type: none"> the degree or diploma in mine surveying technology from Curtin University Western Australian School of Mines; the 3 year diploma of mine surveying from the Department of Technical and Further Education (TAFE); or surveying qualifications from any School of Mines, University, Institute of Technology or Technical College deemed by the Board to be equivalent to a qualification referred to in paragraph (a) or (b). <p>Note: The qualification must include 2 mining units and one geology units.</p> made underground surveys of a nature and under supervision satisfactory to the Board for a period of not less than 24 months good character. 	<p>Prescribed by legislation</p> <p>Qualification:</p> <ol style="list-style-type: none"> the degree or diploma in mine surveying from a recognised Australian university; the 3 year diploma of mine surveying from the Department of Technical and Further Education (TAFE); or a certified equivalent degree or diploma by an agent approved by the Regulator. <p>Experience: Made surveys of underground operations of prescribed nature and under supervision of an experienced mine surveyor* for a period of not less than 24 months.</p> <p>Certificate: None</p> <p>*To be defined</p>	<p>Attendees indicated concern at the ability to assess competency levels in this discipline. Considering the impact of accurate mine plans on safety of a mining operation, it was concluded that the suitable WA WHS mines legislation examination should be a requirement for surveyors.</p> <p>An attendee, who has been a member of the Survey Board, highlighted concerns on assessing levels of competency of mine surveyors due to the following:</p> <ul style="list-style-type: none"> There is no single survey board overseeing competencies MOs are not competent in surveying and cannot assess this There is no measurable evidence of poor surveying until an accident occurs DMP has no specialist mines inspector for surveying, so there is no regulatory control over surveying practices. <p>Suggestions for consideration:</p> <ol style="list-style-type: none"> Include WA WHS mines legislation as a qualification requirement Ensure 'certified equivalent degree or diploma' does not give scope to abuse of this clause Develop a surveyor competency assessment process. 	<ol style="list-style-type: none"> Agreed. See earlier response to similar comments for UGM and QM. The Department is currently discussing this option with surveyors' bodies and associations.

Surveyor for quarry operations

Current requirements	Proposed requirements	Issues raised by stakeholders	DMP response
Appointment: Mine manager to record name of the authorised mine surveyor in the Mine Record Book	Appointment: Mine manager to record name and other details of the mine surveyor in the Mine Record Book.	No issues raised	N/A
Primary functions: Make and draw survey plans. Certify survey plans.	Primary function: Conduct surveys and prepare plans or supervise conducting of surveys and preparation of plans. Certify survey plans.	No issues raised	N/A
<p>Prescribed by legislation</p> <p>Qualification: See below</p> <p>Experience: See below</p> <p>Certificate: Authorised mine surveyor – Grade 2 issued by the Board.</p> <p>To obtain this certificate one must have:</p> <ol style="list-style-type: none"> qualification given below <ol style="list-style-type: none"> the degree or diploma in mine surveying technology from Curtin University Western Australian School of Mines; the 3 year diploma of mine surveying from the Department of Technical and Further Education (TAFE); or surveying qualifications from any School of Mines, University, Institute of Technology or Technical College deemed by the Board to be equivalent to a qualification referred to in paragraph (a) or (b). <p>Note: The qualification must include 2 mining units and one geology units.</p> <ol style="list-style-type: none"> made surveys of quarry operations of a nature and under supervision satisfactory to the Board for a period of not less than 12 months good character. 	<p>Prescribed by legislation</p> <p>Qualification:</p> <ol style="list-style-type: none"> the degree or diploma in mine surveying from a recognised Australian university; the 3 year diploma of mine surveying from the Department of Technical and Further Education (TAFE); or a certified equivalent degree or diploma by an agent approved by the Regulator. <p>Experience: Made surveys of quarry operations of prescribed nature and under supervision of an experienced mine surveyor*for a period of not less than 12 months.</p> <p>Certificate: None</p> <p>*To be defined</p>	(As per previous page)	See earlier response.

Winding engine driver to operate winding engine of any power (>75KW)

Current requirements	Proposed requirements	Issues raised by stakeholders	DMP response
Appointment: Not to be notified. In winding engine log book entries are made by the driver.	Appointment: To be recorded in the Mine Record Book.	No issues raised	N/A
Primary functions: Operate winding engine	Primary function: Operate winding engine	No issues raised	N/A
Prescribed by legislation Qualification: None Experience: See below Certificate: Winding engine driver's certificate class I issued by the Board. To obtain this certificate one must have/be: (a) passed relevant examinations set by the Board; (b) attained the age of 21 years; (c) good character; (d) medically fit; and (e)(i) assisted, under the supervision of a qualified person, in driving an electric winding engine fitted with dead weight power operated brakes or multi spring applied unit brakes, operated by an electric motor of not less than 75 kW for a period of not less than 300 hours at the rate of not less than 12 hours and not more than 40 hours per week; (ii) assisted in carrying out the duties of a platman, skipman, or set rider, including shaft maintenance and shaft repairs for not less than 12 hours per week for a period of 6 weeks; and (iii) a knowledge of the ancillary equipment normally associated with winding engines.	Prescribed by legislation Qualification: None Experience: <ul style="list-style-type: none"> (i) assisted, under the supervision of an experienced driver*, in driving an electric winding engine operated by an electric motor of not less than 75 kW for a period of not less than 300 hours; (ii) assisted in carrying out the duties of a platman, skipman, or set rider, including shaft maintenance and shaft repairs for not less than 12 hours per week for a period of 6 weeks; and (iii) a knowledge of the ancillary equipment normally associated with winding engines (iv) assessed and appointed by the SSE as a competent winding engine driver for that type of winding engine. *experienced driver has the prescribed experience and has operated that type of winder independently for at least one year. Certificate: None	No issues raised	N/A

Winding engine driver to operate winding engine of power >25KW but <75KW

Current requirements	Proposed requirements	Issues raised by stakeholders	DMP response
Appointment: Not to be notified. In winding engine log book entries are made by the driver.	Appointment: To be recorded in the Mine Record Book.	No issues raised	N/A
Primary functions: Operate winding engine	Primary function: Operate winding engine	No issues raised	N/A
Prescribed by legislation Qualification: None Experience: See below Certificate: Winding engine driver's certificate class I issued by the Board. To obtain this certificate one must have/be: (a) passed relevant examinations set by the Board; (b) attained the age of 21 years; (c) good character; (d) medically fit; and (e)(i) assisted, under the supervision of a qualified person, in driving an electric winding engine fitted with dead weight power operated brakes or multi spring applied unit brakes, operated by an electric motor of not less than 75 kW for a period of not less than 300 hours at the rate of not less than 12 hours and not more than 40 hours per week; (ii) assisted in carrying out the duties of a platman, skipman, or set rider, including shaft maintenance and shaft repairs for not less than 12 hours per week for a period of 6 weeks; and (iii) a knowledge of the ancillary equipment normally associated with winding engines.	Prescribed by legislation Qualification: None Experience: (i) assisted, under the supervision of an experienced driver*, in driving an electric winding engine driven by a power input of not more than 75 kW and not less than 25 kW for a period of not less than 300 hours; (ii) assisted in carrying out the duties of a platman, skipman, or set rider, including shaft maintenance and shaft repairs for not less than 12 hours per week for a period of 6 weeks; (iii) a knowledge of the ancillary equipment normally associated with winding engines; and (iv) assessed and appointed by the SSE as a competent winding engine driver for that type of winding engine. Certificate: None **experienced driver has the prescribed experience and has operated that type of winder independently for at least one year.	No issues raised	N/A

Underground supervisor

Current requirements	Proposed requirements	Issues raised by stakeholders	DMP response
Appointment: One or more to be appointed to inspect underground workings once each shift or more frequently as directed by the underground manager.	Appointment: One or more to be appointed to inspect underground workings once each shift or more frequently as directed by the underground manager.	No issues raised	N/A
Primary functions: Inspection of underground workings	Primary function: Allocate tasks, inspect and ensure work in underground workings is carried out in accordance with the Act and Regulations.	No issues raised	N/A
Prescribed by legislation Qualification: See below Experience: See below Certificate: Underground supervisor's certificate issued by the Board. To obtain this certificate one must have: <ol style="list-style-type: none"> Degree, diploma, or associate diploma in mining engineering from university, School of Mines, or Institute of Technology Passed mining law exam set by the Board 2 year underground employment OR <ol style="list-style-type: none"> Passed mining practice and mining law examination set by the Board 5 year underground employment The underground employment stated above must have: <ol style="list-style-type: none"> 3 month drilling – development and stoping face 3 month personal experience charging and firing explosives – development and stoping 6 month underground support, haulage and transport, and general mining servicing work. 	Prescribed by legislation Qualification: Successfully completed regulator recognised: <ul style="list-style-type: none"> course in H&S risk management examination in WA H&S mines legislation. Experience: 5 year experience in or about an underground mine and must include minimum of 3 months personal experience in each of the following activities: <ul style="list-style-type: none"> Ground support Use of explosives Mine ventilation Mine transport and services Mine rescue Certificate: None Note: A person who can be UGM of a mine can obviously be appointed as supervisor of that mine.	Suggestions made for consideration: <ol style="list-style-type: none"> Include drilling as an activity requiring experience Change mine rescue to emergency management. 	<ol style="list-style-type: none"> Agreed. Agreed.

Supervisor (other than underground and electrical supervisors)

Current requirements	Proposed requirements	Issues raised by stakeholders	DMP response
<p>Appointment: Not specified</p> <p>Other than underground supervisor and electrical supervisor there is no provision for a designated supervisor for other operations. The definition of supervisor also covers persons inspecting quarry operations.</p> <p>Inspection of other workings is to be performed by competent persons.</p>	<p>Appointment: The MSMS to have supervisors listed for all operational areas or type of operations.</p>		
<p>Primary functions: See above</p>	<p>Primary function: Allocate tasks, inspect and ensure work is carried out in accordance with the Act and Regulations.</p>		
<p>Prescribed by legislation</p> <p>Qualification:</p> <p>Experience:</p> <p>Certificate:</p>	<p>Prescribed by legislation</p> <p>Qualification: Successfully completed regulator recognised:</p> <ul style="list-style-type: none"> – course in H&S risk management – examination in WA H&S mines legislation. <p>Experience: Minimum of 2 year experience in similar operations/industry the supervisor is allocated to supervise.</p> <p>Certificate: None</p>	<p>Suggestions made for consideration:</p> <ol style="list-style-type: none"> 1. Provide adequate transition periods, due to the large numbers of mining supervisors requiring training. 2. Determine training requirements for supervisors (different training required for different statutory positions) 3. Decide who will be captured by this requirement (e.g. cleaning supervisors, deputies for small work crews?) 	<ol style="list-style-type: none"> 1. Agreed. A separate workshop will be organised to discuss the transitional provisions with stakeholders. 2. Agreed. Experience requirements will be in the industry and nature of the job for which supervision will be required. 3. Agreed. This provision will not apply to supervision in accommodation facilities and administration offices.

Electrical supervisor

Current requirements	Proposed requirements	Issues raised by stakeholders	DMP response
Appointment: Appointed in writing	<p>Appointment: The MSMS to have electrical and other supervisors listed for all operational areas or type of operations.</p> <p>Required only for mines where total connected power is in excess of 200kW. For other operations this function will be performed by the electrician.</p>	No issues raised	N/A
Primary functions: to ensure the efficient supervision of the installation, maintenance and testing of electrical equipment	Primary function: to ensure the efficient supervision of the installation, maintenance and testing of electrical equipment; maintenance of electrical log book	<p>Post-workshop comments:</p> <p>Some sites may outsource electrical roles – is that permitted under the new legislation? (Adi LaBombard, CME)</p>	Yes, as long as effective supervision is provided by the contractor.
<p>Prescribed by legislation</p> <p>Qualification:</p> <ul style="list-style-type: none"> (i) electrical engineering qualifications acceptable for professional engineer membership of the Institution of Engineers Australia; or (ii) an electrical worker's licence endorsed "electrician" or "electrical mechanic" issued under the <i>Electricity (Licensing) Regulations 1991</i> <p>Experience: not less than 2 years relevant experience of electrical work in the mining industry, or in other heavy industry</p> <p>Certificate: See above</p>	<p>Prescribed by legislation</p> <p>Qualification:</p> <ol style="list-style-type: none"> 1. Successfully completed regulator recognised: <ul style="list-style-type: none"> – course in H&S risk management – examination in WA H&S mines legislation. 2. (i) electrical engineering qualifications acceptable for professional engineer membership of the Institution of Engineers Australia; or <ul style="list-style-type: none"> (ii) an electrical worker's licence endorsed "electrician" or "electrical mechanic" issued under the <i>Electricity (Licensing) Regulations 1991</i> <p>Experience: not less than 2 years relevant experience of electrical work in the mining industry, or in other heavy industry</p> <p>Certificate: See above</p>	No issues raised	N/A

High voltage operator

Current requirements	Proposed requirements	Issues raised by stakeholders	DMP response
Appointment: Manager to appoint	Appointment: Mine operator/SSE to appoint one or more persons and include these appointments in MSMS organisational structure.	No issues raised	N/A
Primary functions: Responsible for high voltage installations	Primary function: Responsible for high voltage installations	No issues raised	N/A
Prescribed by legislation (MSIR – no details given) Qualification: Experience: Certificate:	Prescribed by legislation Qualification: Completed a high voltage operator's training course recognised by the regulator Experience: Proven understanding of the type of switchgear the operator is to switch to the satisfaction of the SSE Certificate: None	No issues raised	N/A

Electrician

Current requirements	Proposed requirements	Issues raised by stakeholders	DMP response
Appointment:	Appointment:	No issues raised	N/A
Primary functions: Carry out electrical work	Primary function: Carry out electrical work	No issues raised	N/A
Prescribed by legislation Qualification: authorised to carry out that type of electrical work by a licence or permit under the <i>Electricity (Licensing) Regulations 1991</i> Experience: Not prescribed Certificate: As above	Prescribed by legislation Qualification: authorised to carry out that type of electrical work by a licence or permit under the <i>Electricity (Licensing) Regulations 1991</i> Experience: Not prescribed Certificate: As above	No issues raised	N/A

Ventilation officer – underground mine

Current requirements	Proposed requirements	Issues raised by stakeholders	DMP response
Appointment: Manager to appoint one or more ventilation officers and notify the DI	Appointment: Mine operator/SSE to appoint and include these appointments in MSMS organisational structure	Many hazards are controlled through the MSMS; why not include noise and ventilation hazards?	Loss of hearing is a major concern, as are some contaminants in underground mines. Without the ventilation and noise officer, the emphasis on these hazards is likely to be reduced and safety will be compromised. Management of underground ventilation is critical, as exhaust emissions and particularly diesel particulate matter are significant hazards.
Primary functions: Ensure underground environment is safe for workers and others	Primary function: Ensure underground environment is safe for workers and others	(as per above)	
Prescribed by legislation Qualification: Diploma or degree in which mine ventilation was a substantial component of the curriculum; or Qualification considered by the State mining engineer to be adequate for the mine. Experience: None Certificate: None	Prescribed by legislation Qualification: Diploma or degree in which mine ventilation was a substantial component of the curriculum; or Qualification considered by the regulator to be adequate for the mine. Successfully completed regulator recognised course in H&S risk management. Experience: Has worked in underground mine/s for 2 years of which at least six months should be assisting an underground ventilation officer. Certificate: None	(as per above)	

Ventilation officer – surface

Current requirements	Proposed requirements	Issues raised by stakeholders	DMP response
Appointment: Manager to appoint one or more ventilation officers and notify the DI	Appointment: Mine operator/SSE to appoint and include these appointments in MSMS organisational structure	(as per above)	
Primary functions: Ensure surface environment is safe for workers and others	Primary function: Ensure surface environment is safe for workers and others	(as per above)	
Prescribed by legislation Qualification: See below Experience: Be trained in the sampling and assessment of atmospheric contaminants; and Demonstrate to the satisfaction of the manager or principal employer that the person is competent to perform the duties of that position. Certificate: None	Prescribed by legislation Qualification: Must have successfully completed a course in the sampling and assessment of atmospheric contaminants approved by the regulator; and Demonstrate to the satisfaction of the SSE or MO that the person is competent to perform the duties of that position. Successfully completed regulator recognised course in H&S risk management. Experience: None Certificate: None	(as per above)	

Noise officer

Current requirements	Proposed requirements	Issues raised by stakeholders	DMP response
Appointment: Not specified	Appointment: Mine operator/SSE to appoint and include appointment in MSMS organisational structure	(as per above)	
Primary functions: Prepare noise report	Primary function: Manage noise hazard and prepare noise report	(as per above)	
Prescribed by legislation Qualification: Not prescribed. Regulation 7.10(2) requires the person who collects noise data is 'approved' Experience: Not prescribed Certificate: None	Prescribed by legislation Qualification: Successfully completed a course in preparation of noise report recognised by the regulator. Successfully completed regulator recognised course in H&S risk management. Experience: Not prescribed Certificate: None	(as per above)	

Radiation safety officer

Current requirements	Proposed requirements	Issues raised by stakeholders	DMP response
Appointment: Manager to appoint	Appointment: Mine operator/SSE to appoint and include these appointments in MSMS organisational structure. Appointment required only for mines where radiation has been identified as hazard and a radiation management plan is required.	No issues raised	N/A
Primary functions: Responsible for advising the manager on matters relating to the implementation of the radiation management plan for the mine	Primary function: Manage radiation hazard and implement radiation management plan	No issues raised	N/A
Prescribed by legislation Qualification: Must have qualifications and experience satisfactory to the State mining engineer Experience: Not prescribed Certificate: None	Prescribed by legislation Qualification: Must have qualifications and experience satisfactory to the regulator Successfully completed regulator recognised course in H&S risk management. Experience: Not prescribed Certificate: None	Post workshop comments: The Radiation Safety Officer Role does not appear to have been covered during the Workshop, however, the required qualification and experience appear to have changed from those currently required? CME requires further consideration as to whether existing requirements should be retained and include ventilation training in addition to RSO specific training. Given the lack of training providers and training opportunities for existing RSOs currently, it should be considered how the legislation can support the professional development needs of the individuals filling these niche roles. (Adi LaBombard, CME)	The qualification requirement has not changed. For an underground mine, 3-months additional experience in mine ventilation will be added. Possibility of developing a suitable course by an external provider will be considered.

Other issues discussed

Topic	Issues raised by stakeholders	DMP response
Legislation reform timeline		
DMP advised that the timeline for the WHS (Resources) legislation is still on track. Following implementation of the legislation, there will be a transition period, to allow resources industries to phase in the new requirements.	Is DMP's timeline aligned with WorkSafe's WHS Bill for general industry?	The general feedback from the resources industry is that while it is preferable that both Bills proceed through Parliament together, the WHS (Resources) Bill should not be delayed. Drafting of the WHS (Resources) Bill is progressing without delay.
Interpretation and assessment of regulatory and competency requirements		
	<ol style="list-style-type: none"> 1. A certain amount of interpretation is required when considering regulatory and competency requirements. Boards of Examiners combine regulatory and competency specialists. Who, other than Boards of Examiners, will deal with the 'grey areas' of interpretation of legislation? 2. One attendee who has been on a Statutory Board for many years was of the opinion that Boards of Examiners maintain a consistent approach that cannot be replicated by individual mining operations. He felt that Boards are able to maintain a consistent level of competency assessment, including monitoring of fraudulent statutory declarations by applicants. In addition, Boards maintain registers for recognised tertiary and training organisations. How will we maintain the current consistency of approach? <p>Post-workshop comments:</p> <ol style="list-style-type: none"> 3. Regarding item 2 above, it is important that a consistent and thorough approach is used to assess qualifications that are not on the recognised list. It is suggested that this assessment is eligible to be done by any tertiary institution in Australia that offers the qualification Bachelor of Engineering in Mining and is Engineers Australia accredited to deliver such a program. 4. Regarding DMP response <i>"Holders of unlisted qualifications can seek to have them assessed by the relevant federal authority and added to the list, upon verification of compliance."</i> It is suggested that this assessment is eligible to be done ONLY by any tertiary institution in Australia that offers the equivalent qualification Bachelor of Engineering in Mining and is Engineers Australia accredited to deliver such a program. 	<p>1&2 To provide some confidence in the maintenance of the required standards DMP suggests the following:</p> <ul style="list-style-type: none"> • Knowledge of the OHS laws pertaining to mining activity will be demonstrated by undertaking a supervised computer-based exam on DMP premises. Before a candidate is allowed to appear in the legislation examination, other credentials (qualification and experience) will be checked by DMP. • A notice will be issued to the candidate stating that the person has passed the legislation examination by DMP and a record maintained within the Safety Regulation System (SRS), which can be queried by MOs/SSE through their access rights. • DMP will publish and maintain a list of recognised university qualifications. It will be updated as and when required. • Holders of unlisted qualifications can seek to have them assessed by the agencies approved by MIAC. • Appointments of individuals will be recorded in SRS by the MO/SSE, with details of the incumbent's qualifications and experience. • Penalties will be included within the regulations for appointing persons or accepting an appointment without the prescribed qualifications or experience. • Details of appointments will still be required to be made in the Mine Record, an electronic version of the Mine Record Book in SRS. • The Resources Safety Division (RSD) of DMP will audit the appointment records in SRS, similar to the current levy and AXTAT data audit processes. • MOs will be able to do whatever checks are necessary to ensure competency of appointees. Any additional information or guidance on qualifications or competencies will be included in guidance material, rather than being prescriptively defined in legislation. <p>3&4 MIAC will consider these and other aspects before approving any agency that can approve equivalent qualifications.</p>

Topic	Issues raised by stakeholders	DMP response
Codes of practice and guidance material		
<p>Codes of practice (CoP) will provide guidance to achieving the standards required under legislation. In most cases, following a code of practice would achieve compliance with the legislative requirements. Codes of practice are admissible in court proceedings, where they may be regarded as evidence of what is known about a hazard, risk or control. However, like regulations, codes of practice deal with particular issues and do not cover all situations that may arise.</p> <p>Guidance on Statutory Positions and training organisations will be provided. MIAC is actively involved in vetting guidance material.</p>	How are experts contacted for input to guidance material?	Independent experts are contacted for input to guidance material. There are public consultation processes advertised on the DMP website for all guidance material. In addition, the weekly subscriber Safety Alert service advertises development of guidance material.
Electronic Mine Records		
<p>An electronic version of the Mine Records Book is being considered, to enable better communication between the inspectorate and a mining operation, reducing misunderstanding of previous communication or instruction.</p> <p>It will be part of DMP's electronic Safety Regulation System (SRS) that is integral to maintaining communication with the DMP. It also provides an auditable record.</p> <p>The mining operation makes entries in the Mine Record, such as appointments. This is then locked as a record. While entries to the system are entered by the MO, SRS is the repository maintained by the DMP.</p>		
Other comments and questions		
	<ol style="list-style-type: none"> 1. Considering legislative differences between regulators in Australia, which jurisdiction has the best safety record and what structure is in place? 2. Will qualification and experience requirements remain? 3. Previously there may have been a vast difference between mines employing more than or less than 25 workers. However, with technological advances a large mine, or autonomous mine, may now employ less than 25 people but will still require complicated design and planning. Why does the cut-off for formal qualifications remain at 25 workers? 4. Current regulatory provisions are in place because of previous accidents or deaths. The regulator needs to be 	<ol style="list-style-type: none"> 1. Statistically there is little variance; however, the DMP intends to improve the safety structure in Western Australia while reducing regulatory red-tape. 2. Requirements will be the same or better. 3. A provision will be added whereby mines having <25 employees but with significant hazards — because of the nature of the operation — will be required to comply with requirements of a mine employing >25 persons. The prescriptive requirements in the regulations need to be considered as a minimum requirement while considering controls to manage risks. Some of the details will be included in CoP/Guideline. 4. Point noted.

Topic	Issues raised by stakeholders	DMP response
	<p>cautious of moving prescriptive detail from legislation to guidance material, as some jurisdictions have got this wrong.</p> <p>Suggestions for consideration:</p> <ol style="list-style-type: none"> Review the 25-worker cut-off for formal qualifications Ensure SSE is experienced in construction and process environments <p>Post-workshop comments related to item 6: The intent was:</p> <ul style="list-style-type: none"> To provide a reminder that "mining operations" include construction and process plants (amongst other activities). To support the recommendation that the SSE should have appropriate experience for the type of mining operation for which they are appointed given the role is to provide management and control. Underground manager's need 5 years' experience, 3 years for a quarry manager, 12-24 months experience for a surveyor and 2 years' experience to be a general supervisor. The experience need not be commodity specific, nor process specific (flotation, roaster, CIL/CIP, etc.) as Simon took my comment to mean. <ol style="list-style-type: none"> Provide clear guidance on how to operate during the transition period. 	<ol style="list-style-type: none"> This information will be maintained in CoP/Guidelines. It will be available to the MO for development of MSMS. See response to comment three. A mine can consist of various types of operations and it may not be practical for SSE to have experience in all types of operations. SSE as per the management and supervisory structure provided in MSMS will be assisted by qualified and experienced persons in respective fields of operations. <p>The requirements have been changed to include 2 years' experience for SSE.</p> <ol style="list-style-type: none"> There will be provisions in the regulations to manage the transitional period. A separate workshop is planned to finalise these provisions.
Post-workshop comments and questions		
	<ol style="list-style-type: none"> The Workshop material refers to "regulator recognised course in H&S risk management". CME requests further consultation and clarification on what this will look like. <p>Industry notes the specific risk management competencies required for the different statutory and other positions (supervisors vs SSE) will be different and tailored training should be available.</p> <p>It may be useful for guidance material to outline the specific competency sets for the various positions rather than prescribing a specific type of training for all relevant roles.</p> <p>Additionally, given the limited number of providers in WA, and the large number of employees who will require training under the proposed changes, CME recommends:</p> <ul style="list-style-type: none"> A 5 year transition period; and 	<ol style="list-style-type: none"> Competencies for the 'risk management' courses will be decided in consultation with MIAC <p>If an internal course provided by a company meets the competency requirements and is accredited, it will be acceptable.</p> <p>There will be 2 or 3 levels of risk management courses. Details to be finalised in consultation with MIAC.</p> <ol style="list-style-type: none"> See response provided earlier. In summary: <ul style="list-style-type: none"> Knowledge of the OHS laws pertaining to mining activity will be demonstrated by undertaking an invigilated computer based exam. A certificate will be issued by DMP and a record maintained within the Safety Regulation System (SRS) which can be queried by MOs/SSE through their access rights. Qualification standards will be maintained. Only MIAC accredited agencies will be able to approve qualifications. A list of recognised qualifications will be published and maintained.

Topic	Issues raised by stakeholders	DMP response
	<ul style="list-style-type: none"> Flexibility is provided for in the regulations /guidance to enable companies to roll out the training internally/on site. (Adrienne LaBombard, CME). <p>2. Regarding the proposal to remove the certification process and role of the existing Boards of Examiners, CME is not opposed to this in principal but considers there are still a number of issues to consider further including those raised by sitting members of the Board of Examiners.</p> <p>Our full support will rest on a review of the detail in the draft regulations and the outcomes from the regulatory impact statement on these. (Adrienne LaBombard, CME)</p> <p>3. CME requests further consultation on the OHS laws exam content and how this will be tailored for the different roles which will now be required to undertake the Exam.</p> <p>Industry considers the SSE position and supervisors for example will not require the same level of competence in this area and the exams should be tailored appropriately. (Adrienne LaBombard, CME)</p> <p>Comments from other participants:</p> <p>4. It should be noted that these changes were not known by myself and others until the Monday afternoon when the Chamber Minerals & Energy provided me with a briefing paper written by Simon Ridge, for a meeting with the Chamber Executive Council, at which both Simon and I attended on the Tuesday morning.</p> <p>5. In general terms, I would not oppose the abolition of the Boards of Examiners, but I do think that 2 of the issues do need serious consideration:</p> <ul style="list-style-type: none"> "Grey Areas" of applicants experience – how will these be resolved? Process for verification of experience / consistency. <p>I think the two issues (above) are similar in terms of someone or a group agreeing that a candidate meets the criteria set down in the Act & Regulations. I have been a member of the Quarry Managers Board of Examiners since 2004 and in my opinion it would be accurate to say that 96% of all candidates do satisfy the requirements. But it was not uncommon for 2 – 4 candidates per meeting being required to (a) provide further evidence of experience, (b) do additional time because the candidate had not done enough blasting time or shown what they had done working in or about a mine and (c) the experience provided was questionable in terms of the mine being so small only 3 blasts took place in the 3 month period or the candidate had a different primary role at the</p>	<ul style="list-style-type: none"> Proposed experience has better standard than current experience. In addition to checks made by MO, the Department will check these before a candidate is allowed to appear in the legislation examination. Appointments of individuals will be recorded in SRS by the MO/SSE with details of the incumbents qualifications and experience. Appropriate penalties will be included within the regulations for appointing persons or for an individual to accept an appointment without the prescribed qualifications or experience. SRS will maintain the record of the various appointments for each site and this will be available to the public in the form of a report. RSD will audit the appointment records as part of the current levy and Axtat data audit processes. <p>3. Agreed. There will be differences in the examination for different positions. A paper describing scope of each examination will be provided to MIAC.</p> <p>4. Point noted.</p> <p>5. See response to comment 2.</p>

Topic	Issues raised by stakeholders	DMP response
	<p>mine and was doing "1hr here and 2 hrs there" during meal breaks or shift changes etc., which did not constitute the required time and experience.</p> <p>The "grey areas" referred to in the meeting are partly as per the examples above, but also referring to the institutions that candidates had gained their degree's or diploma's from, which did require follow-up information or outright rejection of candidates applications.</p> <p>The issue is – who will do this vetting if the BoE's are scrapped. You will now rely on industry to nominate candidates who have the required experience, but we have seen, that when a company (and the big miners are no better than the small miners as experience has shown) gets in a pickle and urgently needs to appoint an SSE or QM, will they always nominate candidates with the required experience and academic qualifications? What will be the "process of verification"? This needs to be answered, because not even a basic comment was provided at the meeting.</p> <p>I will be willing to support the changes being suggested in the Workshop policy discussion paper, but the 2 issues (as above) do need work and clarification if the high standards in WA for the management of mines is to be maintained or bettered.</p> <p>6. There was a perception at the meeting that the three people out the front (Anil, Ian and Simon) had all been sold on the raft of changes being suggested. That perception was not helped by the "facilitator" – Ian being the Chairman of the Ministerial Advisory Panel clearly "very much on board" with the changes and any push-back from the remaining participants wasn't going to get a big hearing.</p> <p>7. The Mine Survey profession does not have a single unified representative body, this has been the situation for a number of years, and things are not on track to achieve this in the foreseeable future</p> <p>There is no visual or measurable evidence of poor survey practices to the non-surveyor until it is too late and catastrophic events occur</p> <p>History has demonstrated that a significant ratio of Survey Authorisation applicants are able to pass academic and suitable endorsement requirements, but have been unable to satisfy the Mine Survey Board of their professional competence through an oral examination process</p> <p>How can employers (e.g. Mining Engineers, Human Resources) assess competence of potential Survey</p>	<p>6. This was not the intent of DMP. Any such impression is regrettable and steps will be taken to ensure it does not happen again.</p> <p>From these notes it is clear that the majority of the comments made by the participants have been accepted by the Department.</p> <p>7. Agreed.</p> <ul style="list-style-type: none"> • Mine surveyor will be required to pass a computer-based legislation examination specifically designed for surveyors. • Inspectorate structure is regularly reviewed and the proposal will be considered. • DMP has initiated discussion with industry bodies for this purpose.

Topic	Issues raised by stakeholders	DMP response
	<p>employees if they do not have that competence themselves?</p> <p>DMP should:</p> <ul style="list-style-type: none"> include Mine Surveyors in the requirement to pass a computer based assessment appoint special Mine Survey Inspectors investigate options for the continuation of Mine Surveyor competence assessment by industry peers into the future; if boards are to be dispensed with. <p>8. I have some involvement with AIMS (Australian Institute of Mine Surveyors) and SSSIWA (Surveying & Spatial Sciences Institute – WA) and initial brief discussions with these groups looks like they might have some concerns about losing the practical competency assessment that the Survey board (Oral Examinations) currently do and also the idea to remove the certificates of competency (Grade 1 and Grade 2) issued by the DMP.</p> <p>Ben raised the examination process and our concerns with its removal at the workshop but the other concern I have is with the Mutual Recognition act and its application after the change. If we remove the certificates then it is extremely likely that WA mine surveyors will not be able to apply for mutual recognition to QLD and NSW and will instead have to go through their 2-3 year application process.</p> <p>AIMS and SSSIWA would like to put in a further submission to the DMP.</p> <p>9. The tone of the workshop was defend/attack rather than consultative. DMP should engage a professional and independent third party to facilitate future workshops with a brief to consult attendees and record issues and concerns</p>	<p>8. See response for comment #7.</p> <p>There are many other states where there is no such requirement. Only NSW and Queensland have such requirement.</p> <p>9. DMP will ensure that future workshops do not create such an impression. DMP conducted six more workshops on similar topics with the stakeholders. These were well received by stakeholders.</p>

Appendix

Duties of site senior executive

- (1) The site senior executive (SSE) of a mine must provide control and management of the mine and mining operations at the mine in accordance with this Act.
- (2) Without limiting the generality of clause (1), the site senior executive must ensure that the mine safety management system (MSMS) for the mine is implemented, reviewed and maintained.
- (3) The site senior executive must keep himself/herself up-to-date with the nature of the operations, associated hazards and risks, and systems placed to eliminate or minimise the risks so far as is reasonably practicable for the operations under his/her control.
- (4) The site senior executive must, as part of mine safety management system, ensure that competent persons are available to provide management and supervision at the mine on each work-shift. Provisions must be made for absence of management and supervisory persons from the mining operation.
- (5) In case of an emergency, the site senior executive must be available at the mine to provide direction and control to manage the emergency.

Duties of exploration manager

- (1) An exploration manager must provide overall control and management of the exploration operations for which the person is appointed as exploration manager in accordance with this Act.
- (2) Without limiting the generality of clause (1), the exploration manager must ensure that the safety management system for the exploration operations is implemented, reviewed and maintained.
- (3) An exploration manager must keep himself/herself up-to-date with the nature of operations, associated hazards and risks, and systems placed to eliminate or minimise the hazards so far as is reasonably practicable for the exploration operations under his/her control.
- (4) The exploration manager must, as part of mine safety management system, ensure that competent persons are available to provide supervision of the exploration operation on each work-shift. Provisions must be made for absence of supervisor from the exploration operation.

Duties of underground manager

- (1) An underground manager is responsible for the immediate direction and control of the underground operations of the mine for which the holder of that office is the underground manager, subject to any instructions given to the underground manager by the site senior executive.
- (2) The underground manager of a mine must, so far as is practicable —
 - (a) control and supervise the underground operations of the mine; and
 - (b) ensure that every person who is appointed to perform any duty under this Act underground understands the nature and scope of that duty; and
 - (c) ensure that, when underground, every person, other than the site senior executive, the mine operator, or any person acting on behalf of the mine operator, performs all duties imposed on that person under this Act.
- (3) In case of an emergency in the underground mine, the underground manager must be available at the mine to provide assistance and advice to the site senior executive to manage the emergency.
- (4) An underground manager who contravenes subsection (2) commits an offence.

Duties of quarry manager

- (1) A quarry manager is responsible for the immediate direction and control of the quarry operations of the mine for which the holder of that office is the quarry manager, subject to any instructions given to the quarry manager by the site senior executive.
- (2) The quarry manager of a mine must, so far as is practicable —
 - (a) control and supervise the quarry operations of the mine; and
 - (b) ensure that every person who is appointed to perform any duty under this Act in the course of quarry operations understands the nature and scope of that duty; and
 - (c) ensure that, when engaged in quarry operations, every person, other than the site senior executive, the mine operator, or any person acting on behalf of the mine operator, performs all duties imposed on that person under this Act.
- (3) In case of an emergency in the quarry, the quarry manager must be available at the mine to provide assistance and advice to the site senior executive to manage the emergency.
- (4) A quarry manager who contravenes subsection (2) commits an offence.



Electrical Safety Workshop Report

Background

The Work Health and Safety (Resources) (WHS (R)) legislation will consolidate safety provisions under one Act and one set of regulations, covering mining, petroleum and major hazard facilities (MHFs). While improving consistency across the resources industries, the proposed legislation will not take a “one size fits all” approach. With the resources safety legislation being less prescriptive, innovation and new technologies can be engaged to improve safety outcomes.

The Department of Mines and Petroleum’s (DMP’s) Bill is based on the national model WHS Act, but the supporting regulations will be customised to suit Western Australia.

DMP committed to a full and open consultation process during development of the proposed Work Health and Safety (Resources) legislation.

Consultation on the proposed content of the Bill has been completed and it is currently being drafted by Parliamentary Counsels Office. Consultation on the supporting regulations has commenced.

This workshop covered Electrical Safety provisions in the regulations, affecting the mining industry. For petroleum and major hazard facilities, electrical safety will be covered by the Safety Case and the *Electricity Act 1945*.

Objectives

The key principles for the safety legislation reform are:

- modernising, consolidating and simplifying legislation
- removing prescription and duplication
- providing consistency across different industry sectors
- using codes of practice and guidelines for further guidance and detail.

Workshop consultation process

Member groups on the Ministerial Advisory Panel for Safety Legislation Reform (MAP) were asked to invite representatives from industry, unions and the regulator to participate in a workshop held on 1 April 2016, with 24 people attending.

Briefing papers were provided prior to the workshop. To assist in finalising policy positions, attendees were requested to provide reasons and evidence to support alternatives to the proposed concepts. After the workshop, meeting notes were prepared and distributed to attendees for comment. Written submissions were also encouraged, but none were received.

Stakeholders will have further opportunities to comment on the proposed legislative changes through MAP; other workshops and stakeholder meetings; additional written submissions to DMP;

and the Regulatory Impact Statement (RIS) public consultation process on the regulations in mid-2016.

Final drafting of the regulations will be controlled by the Parliamentary Counsel's Office.

Current legislation

The current mine safety provisions are contained within the *Mines Safety and Inspection Act 1994* (MSIA) and Mines Safety and Inspection Regulations 1995 (MSIR).

Chapter 5 of the MSIR contains the electrical safety provisions regulated by DMP.

Other electrical safety requirements are included in the Electricity (Licencing) Regulations, regulated by the Energy Safety Division of the Department of Commerce.

Proposed Work Health and Safety (Resources) Regulations

The proposed WHS (R) Regulations will use a risk-based approach, requiring all mining operations to prepare a Mine Safety Management System (MSMS).

The MSMS is a framework to demonstrate how the mining operation will control hazards and manage risk. An inspector can issue an improvement notice if an operation does not adequately control the risks. The mining operation can also be instructed to review their MSMS, if deemed to be inadequate. Part 3.1 of the proposed WHS (R) regulations supports the MSMS. It addresses the management of risks to health and safety, including electrical safety, throughout the mining operation. There is a large transient workforce and contractors. They will either operate under the documented MSMS of the mine operator or the SMS accepted by the mine operator.

The national model WHS Regulations included electrical safety provisions for all industries in Section 4.7. The proposed regulations are aligned with MSIR Part 5 and Electricity (Licensing) Regulations (1991).

The three major mining states also produced the National Mine Safety Framework (NMSF) drafting instructions, which contain mining-specific provisions. A key feature of the NMSF was the inclusion of Principal Hazard Management Plans (PHMPs) and Principal Control Plans (PCPs). Western Australia's proposed WHS (R) regulations will include PHMPs, but not PCPs.

Some of the electrical safety provisions in the current MSIR will be retained in the new legislation, but prescriptive provisions from MSIR will be replaced by risk management provisions, with details contained in codes of practice.

The proposed WHS (R) legislation only references Australian Standards where absolutely necessary. Codes of practice, which define procedural outcomes rather than details of procedures, may call on particular Australian Standards as required. This will enable easier updating of references.

Codes of practice and guidelines are integral to ensuring knowledge and industry best practice is retained when implementing the proposed WHS (R) legislation. The Department will make every effort to ensure codes of practice and guidelines maintain that knowledge base.

A number of safety management system templates, control plans and other guidelines will be made available for operators to utilise. Small operations will be assisted as required by DMP.

The electrical safety provisions contained in the Electricity (Licensing) Regulations (1991) will still apply to the whole state of WA, including mines.

Workshop participants had no objection to the removal of current prescriptive regulations from the proposed WHS (R) regulations.

It was noted that AS/NZS 3000 will still be mentioned and apply under the new legislation.

Recommendation:

That the:

- **Ministerial Advisory Panel notes the feedback from the workshop; and**
- **DMP consider this information when developing the proposed Work Health and Safety (Resources) legislation for Western Australia.**

Current regulations	Proposed regulations	Comments by stakeholders	DMP response
<p>5.1. Terms used</p> <p>In this Part, unless the contrary intention appears —</p> <p>cable means an electrical cable within the meaning of AS/NZS 3000;</p> <p>electrical inspector means a special inspector designated as an electrical inspector;</p> <p>electrical log book means the book referred to in regulation 5.13;</p> <p>electrical supervisor, in relation to a mine, means a person appointed to be an electrical supervisor for that mine under regulation 5.10;</p> <p>electrical work has the same meaning as in the Electricity (Licensing) Regulations 1991;</p> <p>extra low voltage means a voltage normally not exceeding —</p> <p>(a) 32 volts alternating current; or</p> <p>(b) 115 volts direct current;</p> <p>hazardous area has the same meaning as in AS/NZS 3000;</p> <p>high voltage means a voltage normally exceeding low voltage;</p> <p>low voltage means a voltage normally exceeding extra low voltage but not normally exceeding 1 000 volts alternating current or 1 500 volts direct current;</p> <p>mobile apparatus means any apparatus or assembly of apparatus that is too heavy to be portable apparatus but is capable of being moved without discontinuing its electric power supply during its use;</p> <p>moveable apparatus means any apparatus or assembly of apparatus that is too heavy to be portable apparatus but that is moved about between periods of use with its electric power supply disconnected;</p> <p>portable apparatus means any apparatus or assembly of apparatus that is intended to be normally held in the hand during use or which can be carried by a person;</p> <p>reeling cable means a cable specifically designed to be frequently reeled on and off a cable drum or reeler on mobile apparatus;</p> <p>trailing cable means a cable specifically designed to be moved in conjunction with mobile apparatus.</p>	<p>1. Terms used</p> <p>electrical equipment has the same meaning as in the Electricity (Licensing) Regulations 1991</p> <p>electrical installation has the same meaning as in the Electricity (Licensing) Regulations 1991</p> <p>electrical work has the same meaning as in the Electricity (Licensing) Regulations 1991</p> <p>electrical log book means the book referred to in regulation (insert number)</p> <p>extra low voltage has the same meaning as in the AS/NZS 3000</p> <p>high voltage has the same meaning as in the AS/NZS 3000</p> <p>low voltage has the same meaning as in the AS/NZS 3000</p> <p>hazardous area has the same meaning as in AS/NZS 3000;</p> <p>mobile apparatus means any apparatus or assembly of apparatus that is too heavy to be portable apparatus but is capable of being moved without discontinuing its electric power supply during its use;</p> <p>moveable apparatus means any apparatus or assembly of apparatus that is too heavy to be portable apparatus but that is moved about between periods of use with its electric power supply disconnected;</p> <p>portable apparatus means any apparatus or assembly of apparatus that is intended to be normally held in the hand during use or which can be carried by a person;</p> <p>reeling cable means a cable specifically designed to be frequently reeled on and off a cable drum or reeler on mobile apparatus;</p> <p>trailing cable means a cable specifically designed to be moved in conjunction with mobile apparatus.</p> <p>Terms used in the WHS (R) regulations will be consistent with the Electricity (Licensing) Regulations (1991) and relevant Australian Standards.</p>	<p>To maintain consistency, the following was suggested:</p> <ol style="list-style-type: none"> Trailing cables should use the definition in AS3007 For mobile apparatus, the term “discontinuing” should be replaced with “discontinued” 	<ol style="list-style-type: none"> Agreed. The definition will be replaced by: <i>Reeling and trailing cables means cables having flexible conductors, insulation incorporating conductor and insulation screens where appropriate, filling, reinforcement where appropriate, one or more protective coverings, and being specially designed to provide flexible electrical connections between portable or mobile machinery and a point of supply.</i> The final drafting of the regulations is done by Parliamentary Counsel's Office and they will decide on the specific wording and terms to be used in the legislation.
<p>(No equivalent provision in MSIR)</p>	<p>2. Management of risks due to electricity</p> <p>(1) The mine operator must in accordance with Part 3.1 manage risks due to electricity at the mine.</p>	<ol style="list-style-type: none"> How can an operator be deemed competent to do a risk assessment? 	<ol style="list-style-type: none"> The proposed WHS (R) legislation will require most statutory positions to have successfully completed an

Current regulations	Proposed regulations	Comments by stakeholders	DMP response
	<p>(2) The mine operator must, without limiting the generality of sub-regulation (1), consider, where applicable, the following aspects in minimising the risks due to electricity at the mine:</p> <p>(a) design, selection, installation, operation and maintenance of electrical equipment and installations and use of electricity at the mine including:</p> <ul style="list-style-type: none"> (i) safe and secure location; (ii) rating; (iii) provision of appropriate switchgear; (iv) prospective electrical fault level; (v) arc fault control; (vi) minimising potential impacts from voltage rise due to lightning, static electricity, voltage surges and other transient voltages to within acceptable limits; (vii) reliable circuit interruption, under fault conditions, at all points in the mine's electrical distribution system; (viii) electrical protective devices; (ix) hazardous atmosphere; <p>(b) signage and warnings;</p> <p>(c) written procedures for critical operations and dealing with emergencies;</p> <p>(d) effective supervision and communication;</p> <p>(e) competencies of persons working with or near electrical equipment and installations.</p> <p>This is a new regulation that supports the MSMS, and requires the mine operator, in accordance with Part 3.1, to manage risks due to electricity at the mine.</p> <p>The term “consider, where applicable” indicates that risk management for electricity is considered for each of the nine points in (a) where they are applicable.</p> <p>Equivalent or better controls may be in place to manage the risk. However, it is important to show that the risk is being managed. Notices may be issued on an operation's MSMS.</p> <p>For the management of risk, including electrical risks, operators should be cognisant of Part 3.1.</p> <p>NOTE: This is the underlying arrangement to control hazards and manage risks, and applies to the whole mining operation, not only electrical safety.</p>	<p>2. What is a critical operation referred to in 2(c)?</p>	<p>approved course on risk management. This will assess the understanding and knowledge of the incumbent in the appropriate risk management process.</p> <p>2. The operator should decide what procedure is critical or hazardous and then develop written procedures.</p> <p>There may be jobs that require hazardous activities and specific procedures need to be followed. Procedures need to be up-to-date and used by workers whenever these activities are undertaken.</p> <p>For example: the control of high voltage (HV) when switching.</p>
<p>5.2. Notice of intention to install electricity supply</p> <p>The manager of a mine must ensure that, before any electricity supply is introduced or re-introduced at a mine, notice of intention to introduce or re-introduce (as the case may be) that electricity supply is given to the electrical inspector.</p> <p>Penalty: See regulation 17.1.</p>	<p><i>(Separate provision not required – covered as part of notice of commencement)</i></p>	<p>No issues raised</p>	<p>N/A</p>

Current regulations	Proposed regulations	Comments by stakeholders	DMP response
5.3. Installations and equipment to be in accordance with Australian Standard Each responsible person at a mine must ensure that electrical installations and equipment are in accordance with AS/NZS 3000. Penalty: See regulation 17.1.	3. Installations and equipment to be in accordance with Australian Standard Each responsible person at a mine must ensure that electrical installations and equipment are in accordance with AS/NZS 3000.	No issues raised.	N/A
5.4. Hazardous areas Each responsible person at a mine must ensure that the design, construction and testing of any electrical equipment to be installed or used in a hazardous area has been certified by the manufacturer as being in accordance with — (a) AS 2380; or (b) an equivalent standard in another country that has been approved in writing by the State mining engineer for the purposes of this regulation. Penalty: See regulation 17.1.	<i>(Separate provision not required – covered under regulation 2 and the general duty of care provisions)</i>	No issues raised	N/A
5.5. Unauthorised access Each responsible person at a mine must ensure that any room, enclosure or other place used principally for the installation of electrical equipment is designed to restrict access by unauthorised persons. Penalty: See regulation 17.1.	<i>(Separate provision not required – covered under regulation 2 and the general duty of care provisions)</i>	This regulation maintains control of entry to a restricted area – how will a smaller operator maintain security?	This is part of the MSMS. Penalties will still be in place.
5.6. Interference or damage A person must not wilfully or negligently damage, interfere with, or, without the authority of the manager, render unserviceable any electric cable, electrical appliance or electrical equipment, or any part thereof, used in connection with the supply or use of electricity in a mine. Penalty: See regulation 17.1.	<i>(Separate provision not required – covered under regulation 2 and the general duty of care)</i>	No issues raised	N/A
5.7. Switching on or cutting off of electrical supply A person must not switch on or cut off the electricity supply to or at a mine unless the person — (a) has been authorised to do so by the manager of the mine; and (b) has ensured that it is safe to do so. Penalty: See regulation 17.1.	<i>(Separate provision not required – covered under regulation 2 and the general duty of care)</i>	No issues raised	N/A
5.8. Working space Each responsible person at a mine must ensure that adequate working space and adequate means of access to that working space are provided for persons to carry out work on electrical equipment at the mine. Penalty: See regulation 17.1.	<i>(Separate provision not required – covered under regulation 2 and the general duty of care)</i>	No issues raised	N/A
5.9. Electrical work to be carried out by licensed persons Each responsible person at a mine must ensure that a person is not engaged or permitted to carry out electrical work at the mine unless the person is authorised to carry out that work by a licence or permit under the Electricity (Licensing) Regulations 1991. Penalty: See regulation 17.1.	<i>(Separate provision not required – covered under regulations on statutory positions)</i>	No issues raised	N/A

Current regulations	Proposed regulations	Comments by stakeholders	DMP response
<p>5.10. Electrical supervisors</p> <p>(1) The principal employer at, and the manager of, a mine must ensure that sufficient electrical supervisors are appointed in writing by the principal employer or manager —</p> <p>(a) to ensure the efficient supervision of the installation, maintenance and testing of electrical equipment; and</p> <p>(b) to be responsible to the manager for the electrical equipment at the mine.</p> <p>Penalty: See regulation 17.1.</p> <p>(2) To be eligible for appointment as an electrical supervisor a person must —</p> <p>(a) hold —</p> <p>(i) electrical engineering qualifications acceptable for professional engineer membership of the Institution of Engineers Australia; or</p> <p>(ii) an electrical worker's licence endorsed "electrician" or "electrical mechanic" issued under the <i>Electricity (Licensing) Regulations 1991</i>;</p> <p>and</p> <p>(b) have not less than 2 years relevant experience of electrical work in the mining industry, or in other heavy industry.</p> <p>(3) The principal employer at, or the manager of, a mine may in writing revoke any appointment made under subregulation (1).</p> <p>(4) The manager of a mine must ensure that the following things are recorded in the record book for the mine —</p> <p>(a) the appointment of any person as an electrical supervisor or the revocation of any such appointment; and</p> <p>(b) the electrical supervisor's areas of responsibility.</p> <p>Penalty: See regulation 17.1.</p>	<p><i>(Separate provision not required – covered under regulations on statutory positions)</i></p>	<p>No issues raised</p>	<p>N/A</p>
<p>5.11. Duties of electrical supervisor</p> <p>An electrical supervisor at a mine is responsible for —</p> <p>(a) ensuring that all work carried out by persons in relation to electrical equipment and installations at the mine is adequately supervised;</p> <p>(b) ensuring that electrical equipment and installations at the mine are installed and tested in accordance with these regulations, and maintained in a safe working condition;</p> <p>(c) stopping the use of any electrical equipment or installation at the mine considered to be dangerous and reporting to the manager any situation which may affect the safe use of electricity or contravene these regulations;</p> <p>(d) investigating, recording in the electrical log book and reporting to the manager details of —</p> <p>(i) any electric shock or burn received by a person;</p> <p>(ii) any fire suspected to be caused by electricity; and</p>	<p><i>(Separate provision not required – covered under regulations on statutory positions)</i></p>	<p>No issues raised</p>	<p>N/A</p>

Current regulations	Proposed regulations	Comments by stakeholders	DMP response
<p>(iii) any dangerous occurrence involving electricity which could have caused injury to a person;</p> <p>and</p> <p>(e) recording in the electrical log book any information required under this Part to be recorded in that book.</p>			
<p>5.12. Defects to be reported</p> <p>An employee at a mine must immediately report to the manager or electrical supervisor any defect or damage to electrical equipment which may render the equipment unsafe for use.</p> <p>Penalty: See regulation 17.1.</p>	<p><i>(Separate provision not required – covered under regulation 2 and the general duty of care)</i></p>	No issues raised	N/A
<p>5.13. Records to be kept</p> <p>(1) The manager of a mine must cause to be kept at the mine —</p> <p>(a) an electrical log book in which the information required by this Part must be recorded;</p> <p>(b) plans showing the location and details of all —</p> <p>(i) high voltage cabling and equipment installed at the mine;</p> <p>(ii) main switches provided at the mine; and</p> <p>(iii) low voltage and high voltage cables installed in the ground at the mine;</p> <p>and</p> <p>(c) copies of any compliance and test certificates relating to equipment used or installed in hazardous areas.</p> <p>Penalty: See regulation 17.1.</p> <p>(2) The manager of a mine must ensure that the plans referred to in subregulation (1)(b) are immediately revised or replaced if necessary to reflect any changes to electrical equipment at the mine.</p> <p>Penalty: See regulation 17.1.</p>	<p>4. Records to be kept</p> <p>(1) The site senior executive of a mine must cause to be kept at the mine —</p> <p>(a) an electrical log book, approved by the regulator, in which the information required by this Part must be recorded;</p> <p>(b) up to date plans showing the location and details of all —</p> <p>(i) high and low voltage cabling and equipment installed at the mine;</p> <p>(ii) main switches provided at the mine; and</p> <p>(iii) low voltage and high voltage cables installed in the ground at the mine;</p> <p>(c) copies of any compliance and test certificates relating to equipment used or installed in hazardous areas; and</p> <p>(d) details of all electrical installing work carried out at the mine.</p> <p>(2) The records maintained in subregulation (1) form part of mine records defined in regulation ??.</p> <p>The electrical log book will be retained as a log for electrical work carried out on a mine site.</p> <p>This regulation will now include details of electrical installing work (r. 5.14)</p>	No issues raised	N/A
<p>5.14. Details of electrical installing work</p> <p>The manager of a mine must ensure that details of all electrical installing work carried out at the mine is recorded in the electrical log book.</p> <p>Penalty: See regulation 17.1.</p>	<p><i>(Separate provision not required – covered under regulation 4)</i></p>	No issues raised	N/A
<p>5.15. Fire extinguishers</p> <p>The manager of, and each employer at, a mine must ensure that fire extinguishers of an appropriate type and size are kept ready for use —</p> <p>(a) near main switchboards and substations; and</p> <p>(b) at any other place that an inspector requires.</p> <p>Penalty: See regulation 17.1.</p>	<p><i>(Separate provision not required – covered under regulation 2 and the general duty of care)</i></p>	No issues raised	N/A

Current regulations	Proposed regulations	Comments by stakeholders	DMP response
<p>5.16. Main switches</p> <p>The manager of a mine must ensure that main switches are provided in readily accessible positions to control the supply of electricity to each of the following places at the mine —</p> <ul style="list-style-type: none"> (a) a quarry operation; (b) a dredge; (c) a construction site; and (d) an underground mine. <p>Penalty: See regulation 17.1.</p>	<p><i>(Separate provision not required – covered under regulation 2 and the general duty of care)</i></p>	No issues raised	N/A
<p>5.17. Notices to be displayed</p> <p>The manager of a mine must ensure that a notice providing instructions for the resuscitation of persons suffering from electric shock is displayed near the entrance to each room, enclosure or other place at the mine that is used principally for the installation or maintenance of electrical equipment.</p> <p>Penalty: See regulation 17.1.</p>	<p><i>(Separate provision not required – covered under regulation 2 and general duty of care)</i></p>	No issues raised	N/A
<p>5.18. High voltage installations</p> <p>(1) The manager of a mine where high voltage equipment is installed must appoint in writing one or more competent persons (in this regulation referred to as high voltage operators) to be responsible for high voltage installations at the mine.</p> <p>Penalty: See regulation 17.1.</p> <p>(2) Each responsible person at a mine must ensure that —</p> <ul style="list-style-type: none"> (a) before any high voltage installation is installed at the mine, complete details of the proposed installation are provided to an electrical inspector; (b) the isolation of any high voltage equipment at the mine for access, maintenance or repair purposes is only carried out by a high voltage operator; (c) the appointment of any person as a high voltage operator at the mine is recorded in the record book; (d) any safety equipment required to be provided under the <i>Electricity Regulations 1947</i> is provided in respect of any high voltage installation at the mine; (e) any methods of work required to be complied with under the <i>Electricity Regulations 1947</i> are complied with in respect of any high voltage installation at the mine; and (f) a person does not work, or operate any plant, in close proximity to exposed high voltage conductors or components unless authorised to do so by a permit issued by a high voltage operator. <p>Penalty: See regulation 17.1.</p> <p>(3) A high voltage operator must not issue a permit referred to in subregulation (2)(f) to any person unless the high voltage operator has ensured that all relevant safety measures have been detailed on the permit and have been given effect to.</p> <p>Penalty: See regulation 17.1.</p>	<p>5. High voltage installations</p> <p>The site senior executive at a mine must ensure that —</p> <ul style="list-style-type: none"> (a) before any high voltage installation is installed the regulator is notified in the prescribed form; and (b) the isolation of any high voltage equipment at the mine for access, maintenance or repair purposes is only carried out by a high voltage operator. <p>“Complete” details of an HV installation (r.5.18(2)(a)) will no longer be required. Only notice of the installation in the prescribed form will be required.</p> <p>The second part of r.5.18 is about the HV operator. This is no longer relevant as the HV Operator has been transferred to a Statutory Position under the proposed WHS (R) legislation.</p>	<ol style="list-style-type: none"> The danger that may now arise is that installation will start before the design is complete. How will this be controlled? Why is r.5.18(f) being removed? 	<ol style="list-style-type: none"> The Regulator must be notified before HV installation starts. If necessary, Regulator can make necessary checks. At present a HV submission is not approved by the Regulator. Details will be picked up in a code of practice. The mine operator will need to ensure the work is done safely, and records showing safe systems of work will need to be kept.

Current regulations	Proposed regulations	Comments by stakeholders	DMP response
5.19. Installation of cables Each responsible person at a mine must ensure that cables are installed, located, supported and protected in a way that — <ul style="list-style-type: none"> (a) minimizes the risk of damage to the cable; (b) does not obstruct any accessway; and (c) separates the cable from other services at the mine. Penalty: See regulation 17.1.	<i>(Separate provision not required – covered under regulation 2 and general duty of care)</i>	No issues raised	N/A
5.20. Cable coverings (1) Each responsible person at a mine must ensure that any cables installed in a quarry operation, on a dredge or in an underground mine are protected by a metallic covering that complies with subregulation (2) and encloses all of the conductors of the cable (including the earthing conductor). Penalty: See regulation 17.1. (2) The metallic covering must be — <ul style="list-style-type: none"> (a) electrically continuous; (b) connected to earth; (c) protected against corrosion; and (d) securely attached to equipment at each end. (3) Subregulation (1) does not apply to — <ul style="list-style-type: none"> (a) a trailing cable, or a reeling cable, that complies with regulation 5.21; (b) a cable or conductor energized at extra low voltage; (c) a flexible cord not exceeding 3 metres in length that is permanently connected to a portable apparatus; (d) a cable used in a floating treatment plant which is part of a dredging operation; or (e) a cable used for telephone or signalling purposes. 	<i>(Separate provision not required – covered under regulation 2 and general duty of care.)</i> A code of practice will cover details, such as aluminum coated cabling.	No issues raised	N/A
(No equivalent provision in MSIR)	6. Live electrical work The site senior executive of a mine must ensure that any live electrical work, if carried out at a mine, must be in accordance with Electricity (Licencing) Regulations, 1991. These provisions are still being finalised by Energy Safety Division of the Department of Commerce. This regulation is the result of three recent fatalities resulting from live electrical work. Live electrical work is prohibited. However, exceptions and exemptions will be written into the legislation. It is expected that Energy Safety will develop this regulation within the Electricity (Licensing) Regulations (1991). The WHS (R) Regulations will refer to this provision.	Will live testing be allowed?	Live testing, with certain precautions, will be permitted by this regulation. The guidelines will contain similar details to the extra low voltage (ELV) code of practice.

Current regulations	Proposed regulations	Comments by stakeholders	DMP response
<p>5.21. Trailing cables and reeling cables</p> <p>Each responsible person at a mine must ensure that any trailing cable and reeling cable at the mine —</p> <ul style="list-style-type: none"> (a) conforms to AS/NZS 1802 if the mine is an underground coal mine or AS/NZS 2802 in any other case; (b) incorporates a pilot core arranged to cut off the supply of electricity in the event of a break in the earthing circuit; (c) is installed, located and used in a way that minimizes the risk of damage to the cable and to any connecting or coupling device; and (d) is repaired and tested in accordance with AS/NZS 1747. <p>Penalty: See regulation 17.1.</p>	<p>9. Trailing cables and reeling cables</p> <p>The site senior executive at a mine must ensure that any trailing cable and reeling cable at the mine —</p> <ul style="list-style-type: none"> (a) incorporates a pilot core arranged to cut off the supply of electricity in the event of a break in the earthing circuit; and (b) is installed, located and used in a way that minimizes the risk of damage to the cable and to any connecting or coupling device <p>Detail will be contained in a code of practice, which will be referenced in the regulations.</p> <p>Definitions will be aligned to AS/NZS 3007.</p>	No issues raised	N/A
<p>5.22. Signals and telephones</p> <p>Each responsible person at a mine must ensure that any cable and apparatus used for telephone or signalling systems that is installed in quarry operations, on a dredge, or in an underground mine is of substantial and reliable construction.</p> <p>Penalty: See regulation 17.1.</p>	<i>(Separate provision not required – covered under regulation 2 and general duty of care)</i>	No issues raised	N/A
<p>5.23. Earthing systems</p> <p>(1) Each responsible person at a mine must ensure that —</p> <ul style="list-style-type: none"> (a) any earthing system installed in a quarry operation or an underground mine is connected to the earthing system established at the surface of the mine by means of a continuous earthing conductor; (b) no earthing electrode is installed in a quarry operation or an underground mine; (c) the neutral point of an alternating current electrical system is effectively earthed to the main earthing system; (d) an earthing system that incorporates an impedance complies with the requirements for protection against indirect contact in AS 3007.2; and (e) any single phase alternating current apparatus that is installed in a quarry operation or an underground mine is supplied from a double wound transformer having one pole of the secondary winding connected to earth. <p>Penalty: See regulation 17.1.</p> <p>(2) The requirements in subregulation (1)(a), (b) and (e) do not apply to installations in any parts of quarry operations that are safe distances from places where electrical shot firing methods are employed.</p>	<p>7. Earthing systems</p> <p>(1) Each responsible person at a mine must ensure that —</p> <ul style="list-style-type: none"> (a) any earthing system installed in a quarry operation or an underground mine is connected to the earthing system established at the surface of the mine by means of a continuous earthing conductor; (b) no earthing electrode is installed in a quarry operation or an underground mine; (c) the neutral point of an alternating current electrical system is effectively earthed to the main earthing system; (d) an earthing system that incorporates an impedance complies with the requirements for protection against indirect contact in AS 3007.2; and (e) any single phase alternating current apparatus that is installed in a quarry operation or an underground mine is supplied from a double wound transformer having one pole of the secondary winding connected to earth. <p>(2) The requirements in subregulation (1)(a), (b) and (e) do not apply to installations in any parts of quarry operations that are safe distances from places where electrical shot firing methods are employed.</p> <p>In the case of earthing systems, AS/NZS 3007 will be referenced.</p>	No issues raised	N/A

Current regulations	Proposed regulations	Comments by stakeholders	DMP response
<p>5.24. Earth leakage protection</p> <p>(1) Each responsible person at a mine must ensure that an earth leakage protection device that complies with subregulation (2) is provided for —</p> <p>(a) all alternating current circuits installed in a quarry operation, on a part of a dredge other than a floating treatment plant, and in an underground mine; and</p> <p>(b) all circuits providing alternating current supply to portable, mobile or moveable apparatus.</p> <p>Penalty: See regulation 17.1.</p> <p>(2) The earth leakage protection device must —</p> <p>(a) be set to operate immediately so far as is practicable;</p> <p>(b) incorporate a readily accessible means for testing the operation of the device; and</p> <p>(c) operate at a leakage current not exceeding —</p> <p>(i) 30 milliamperes and comply with AS/NZS 3190 (Type II) for circuits supplying portable apparatus;</p> <p>(ii) 1 ampere for low voltage circuits; or</p> <p>(iii) 2 amperes for high voltage circuits.</p> <p>(3) This regulation does not apply to electrical systems operated at extra-low voltage.</p>	<p>8. Earth leakage protection</p> <p>(1) The site senior executive at a mine must ensure that an earth leakage protection device that complies with subregulation (2) is provided for —</p> <p>(a) all alternating current circuits installed in a quarry operation, on a part of a dredge other than a floating treatment plant, and in an underground mine; and</p> <p>(b) all circuits providing alternating current supply to portable, mobile or moveable apparatus.</p> <p>(2) The earth leakage protection device must —</p> <p>(a) be set to operate immediately so far as is practicable;</p> <p>(b) incorporate a readily accessible means for testing the operation of the device; and</p> <p>(c) operate at a leakage current not exceeding —</p> <p>(i) 30 milliamperes for circuits supplying portable apparatus;</p> <p>(ii) 1 ampere for low voltage circuits; or</p> <p>(iii) 2 amperes for high voltage circuits.</p> <p>(3) A person with management or control of a workplace must take all reasonable steps to ensure that residual current devices used at the workplace are tested regularly by a competent person to ensure that the devices are operating effectively.</p> <p>(4) The person must keep a record of all testing of a residual current device (other than any testing conducted daily) until the earlier of the following occurs:</p> <p>(i) the device is next tested;</p> <p>(ii) the device is permanently removed from use.</p> <p>(5) This regulation does not apply to electrical systems operated at extra-low voltage.</p> <p>A new provision 8(3) has been added to the current r.5.24.</p>	No issues raised	N/A
<p>5.25. Electric trolley wire systems</p> <p>The manager of a mine must ensure that an electric trolley overhead wire system is not installed or used in a quarry or in an underground mine without the prior written approval of the district inspector.</p> <p>Penalty: See regulation 17.1.</p>	<i>(Separate provision not required – covered under regulation 2 and general duty of care)</i>	No issues raised	N/A
<p>5.26. Lightning protection</p> <p>Each responsible person at a mine must ensure that adequate protection is provided for installations, buildings and structures at the mine that are at risk from the effects of atmospheric electricity.</p> <p>Penalty: See regulation 17.1.</p>	<i>(Separate provision not required – covered under regulation 2 and general duty of care)</i>	No issues raised	N/A

Current regulations	Proposed regulations	Comments by stakeholders	DMP response
<p>5.27. Maintenance of electrical equipment</p> <p>(1) Each responsible person at a mine must ensure that a maintenance system that complies with subregulation (2) is in place at the mine to ensure that electrical equipment and installations are maintained in safe working order.</p> <p>Penalty: See regulation 17.1.</p> <p>(2) The maintenance system must include —</p> <p>(a) periodic examination and testing of all equipment and cables at such intervals as may be necessary to ensure safety;</p> <p>(b) quarterly examination, testing and tagging of any portable apparatus that is normally used in heavy operating environments such as workshops, mining areas, processing areas, construction sites and similar places;</p> <p>(c) routine testing of the effectiveness of the earthing system, the continuity of earthing conductors and the adequacy of electrical insulation; and</p> <p>(d) monthly testing of earth leakage protection devices and earth continuity protection devices required to be installed in a quarry operation, on a part of a dredge other than a floating treatment plant, or in an underground mine.</p> <p>(3) A tag referred to in subregulation (2)(b) must identify the date of examination and testing and the person who carried out the examination and testing.</p> <p>(4) When any examination or test is carried out in accordance with this regulation, the electrical supervisor at a mine must ensure that either —</p> <p>(a) the results are recorded in the electrical log book; or</p> <p>(b) an entry is made in the electrical log book describing where the results can be found.</p> <p>Penalty: See regulation 17.1.</p>	<p><i>(Separate provision not required – covered under regulation 2 and general duty of care)</i></p>	<p>No issues raised</p>	<p>N/A</p>
<p>5.28. Overhead powerlines</p> <p>(1) Each responsible person at a mine must ensure that —</p> <p>(a) overhead powerlines are located, installed and identified in a way that minimizes the risk of inadvertent contact by vehicles and machinery; and</p> <p>(b) any high voltage overhead powerlines are designed and constructed in accordance with AS/NZS 7000:2010; and</p> <p>(c) minimum clearances for the movement of vehicles and machinery under and in the vicinity of overhead powerlines are in accordance with AS 3007.5; and</p> <p>(d) the following activities are not carried out in any powerline corridor unless the minimum clearances required under paragraph (c) can be assured —</p> <p>(i) drilling, excavating, loading, hauling or dumping;</p> <p>(ii) the construction, fabrication, maintenance or storage of buildings, structures, machinery and equipment;</p>	<p><i>(Separate provision not required – covered under regulation 2 and general duty of care)</i></p>	<p>Participants indicated that overhead power lines are hazards that need to be carefully controlled and the overhead power line corridor should be maintained.</p> <p>The proposal to manage the risk under a general duty of care was deemed insufficient.</p> <p>There was general agreement to retain regulation 5.28.</p>	<p>DMP will retain regulation 5.28.</p> <p>AS/NZS 3000 <i>Electrical installations</i> calls up AS/NZS 7000 <i>Overhead line design</i>, so referencing AS/NZS 7000 separately is considered unnecessary.</p>

Current regulations	Proposed regulations	Comments by stakeholders	DMP response
<p>(iii) operation of vehicles or machinery with elevating parts that do not afford the required clearance when fully raised.</p> <p>(2) In subregulation (1) —</p> <p>powerline corridor means —</p> <p>(a) the area under any overhead powerline that has not been properly isolated; and</p> <p>(b) the area of 10 metres on each side of the area referred to in paragraph (a).</p>			
<p>5.29. Isolation of equipment</p> <p>Each responsible person at a mine must ensure that —</p> <p>(a) electrical equipment at the mine is provided with full current isolating devices capable of being secured in the isolating position;</p> <p>(b) the means referred to in paragraph (a) are used whenever it is necessary to isolate any electrical equipment;</p> <p>(c) switches provided for earthing have facilities that allow the switch to be locked in either the on or off positions; and</p> <p>(d) if it is not practicable to avoid work in close proximity to exposed live parts of electrical equipment, effective measures are taken to safeguard persons against that hazard.</p> <p>Penalty: See regulation 17.1.</p>	<p><i>(Separate provision not required – covered under regulation 2 and general duty of care)</i></p>	No issues raised	N/A
<p>5.30. Labelling of equipment</p> <p>Each responsible person at a mine must ensure that if any distribution cable and switchgear are installed at a quarry, on a dredge or in an underground mine, the distribution cable and switchgear are labelled in a way that clearly identifies the source and destination of the electricity supply.</p> <p>Penalty: See regulation 17.1.</p>	<p><i>(Separate provision not required – covered under regulation 2 and general duty of care)</i></p>	No issues raised	N/A
<p>5.31. Cables installed in the ground</p> <p>(1) Each responsible person at a mine must ensure that any low voltage or high voltage cables installed in the ground at the mine —</p> <p>(a) are installed in accordance with AS/NZS 3000;</p> <p>(b) are installed with orange cable marker tape and surface cable route indicators; and</p> <p>(c) are protected by either —</p> <p>(i) steel wire armouring, if buried directly in the ground; or</p> <p>(ii) a substantial heavy duty wiring enclosure.</p> <p>Penalty: See regulation 17.1.</p> <p>(2) The manager of a mine must ensure that excavation work is not commenced within the vicinity of buried cables unless a permit to do so has been issued by an authorised person.</p> <p>Penalty: See regulation 17.1.</p>	<p><i>(Separate provision not required – covered under regulation 2 and general duty of care)</i></p>	<p>While this regulation is considered useful, there was general agreement that details could be covered in a code of practice.</p> <p>An operation may use this regulation as justification not to fully isolate, and in so doing not halt an operation.</p>	N/A

Current regulations	Proposed regulations	Comments by stakeholders	DMP response
<p>(3) An authorised person must not issue a permit referred to in subregulation (2) unless the person has —</p> <ul style="list-style-type: none"> (a) specifically identified the location of the excavation work; (b) consulted the plans referred to in regulation 5.13(1)(b); and (c) detailed on the permit to the persons carrying out the work any precautionary measures that need to be taken. <p>(4) In subregulations (2) and (3) —</p> <p>authorised person means a person authorised by the manager of the mine for the purposes of this regulation.</p>			
<p>5.32. Earth continuity protection and monitoring</p> <p>(1) This regulation applies to the following equipment —</p> <ul style="list-style-type: none"> (a) any mobile equipment operating from either trailing cables or reeling cables; (b) any other equipment where the supply cable may be exposed to the risk of damage due to tension; and (c) any equipment connected by restrained plugs and receptacles complying with AS/NZS 1299. <p>(2) Each responsible person at a mine must ensure that, in respect of any equipment to which this regulation applies, a system of monitoring of the earth continuity is provided that automatically disconnects the electricity supply to a cable in the event of a break in the earth conductor.</p> <p>Penalty: See regulation 17.1.</p>	<p>10. Earth continuity protection and monitoring</p> <p>(1) This regulation applies to the following equipment —</p> <ul style="list-style-type: none"> (a) any mobile equipment operating from either trailing cables or reeling cables; and (b) any other equipment where the supply cable may be exposed to the risk of damage due to tension; and (c) any equipment connected by restrained plugs and receptacles complying with AS/NZS 1299. <p>(2) The site senior executive at a mine must ensure that, in respect of any equipment to which this regulation applies, a system of monitoring of the earth continuity is provided that automatically disconnects the electricity supply to a cable in the event of a break in the earth conductor.</p> <p>The proposed reference in provision 10(1)(c) to AS/NZS 1299 will be moved to a code of practice.</p>	No issues raised	N/A



Petroleum and Major Hazard Facilities Workshop Report

Background

The Work Health and Safety (Resources) (WHS(R)) legislation will consolidate safety provisions under one Act and one set of regulations, covering mining, petroleum and MHFs. While improving consistency across the resources industries, the proposed legislation will not take a “one size fits all” approach. With the resources safety legislation being less prescriptive, innovation and new technologies can be engaged to improve safety outcomes.

DMP's Bill is based on the national model WHS Act, but the supporting regulations will be customised to suit Western Australia.

DMP committed to a full and open consultation process during development of the proposed Work Health and Safety (Resources) legislation. Consultation on the proposed content of the Bill has been completed and it is currently being drafted by Parliamentary Counsels Office. Consultation on the supporting regulations has commenced.

This workshop covered the prescriptive and any new provisions in the proposed regulations, applicable to the petroleum and major hazard facilities industries. It also discussed changes resulting from stakeholder feedback received during and after the 26 November 2015 Safety Case Workshop.

Objectives

The key principles for the safety legislation reform are:

- modernising, consolidating and simplifying legislation
- removing prescription and duplication
- providing consistency across different industry sectors
- using codes of practice and guidelines for further guidance and detail.

Workshop consultation process

Member groups on the Ministerial Advisory Panel for Safety Legislation Reform (MAP) were asked to invite representatives from industry, unions and the regulator to participate in a workshop held on 4 April 2016, with 25 people attending, including two representatives from the Department of Fire and Emergency Services (DFES).

Briefing papers were provided prior to the workshop. To assist in finalising policy positions, attendees were requested to provide reasons and evidence to support alternatives to the proposed concepts. After the workshop, meeting notes were prepared and distributed to attendees for comment. Written submissions were also encouraged, but none were received.

Stakeholders will have further opportunities to comment on the proposed legislative changes through MAP; other workshops and adhoc stakeholder meetings; additional written submissions to DMP; and the Regulatory Impact Statement (RIS) public consultation process on the regulations in mid-2016.

Current legislation

The current legislative framework is not an effective or efficient regulatory structure, with safety and health requirements spread across multiple Acts and regulations.

Major Hazard Facilities are licenced by DMP under the *Dangerous Goods Safety Act 2004*, and regulated by Resources Safety Division (RSD) under a Safety Report, which only covers process safety. Occupational safety and health at MHFs is covered by Worksafe under the *Occupation Safety and Health Act 1984*.

Onshore petroleum operations are performed on titles under the *Petroleum and Geothermal Energy Resources Act 1967*. Process safety and occupational safety and health are covered by Resources Safety Division (RSD) under an SMS and the Petroleum and Geothermal Energy Resources (Occupational Safety and Health) Regulations 2010.

Onshore transmission pipelines are licenced under the *Petroleum Pipelines Act 1969*. Process safety and occupational safety and health are covered by RSD under a Safety Case and the Petroleum Pipelines (Occupational Safety and Health) Regulations 2010. Dangerous Goods Safety provisions do not apply.

Offshore petroleum facilities are installed on blocks licenced under the *Petroleum (Submerged Lands) Act 1982*. Process safety and occupational safety and health is covered by RSD under a Safety Case and the Petroleum (Submerged Lands) (Occupational Safety and Health) Regulations 2007.

Proposed legislation

The DMP reform team is working through feedback from the Safety Case workshop, modifying concepts that were presented at that workshop. Some policy decisions are yet to be made, and the Parliamentary Counsel's Office has the final say on the wording of the regulations.

In the proposed legislation MHFs will be considered a resources site, rather than being a large dangerous goods site.

The WHS (R) Bill sets out the duties that a resources operation is expected to uphold, while the Regulations set out the rules that the resources operation will follow. Duty of care is primarily used. WA is moving toward performance-based regulations and, while most prescription will be removed, some will remain. The intent of this workshop is to discuss if these prescriptive requirements are relevant and add value to petroleum and MHF operations which will operate under a Safety Case.

The following prescriptive legislation will be dis-applied and requires adequate coverage:

Legislation	Regulator
OSH Act / proposed WHS Act (for general industry)	WorkSafe (Dept. of Commerce)
Dangerous Goods (Storage and Handling of Non-explosives) Regulations	Resources Safety (DMP)
Gas Standards Act	Energy Safety (Dept. of Commerce)
Marine National Law	Dept. of Transport/AMSA

The following legislation can remain in force:

Legislation	Regulator
Electricity Act	Energy Safety (Dept. of Commerce)
Dangerous Goods Safety Act and remaining Dangerous Goods Safety Regulations	Resources Safety (DMP)

Summary of Issues

In view of the above it is proposed to:

- Implement the emergency response requirements equivalent to the provisions applied to Dangerous Goods Sites
- Implement the Radiation Management Plan for petroleum and MHF operations
- Implement Health and Biological Monitoring where workers are exposed to substances which cause occupational diseases
- Implement specific duties to the operator where they add value
- Minimise prescriptive control measures
- Further consider the implementation of a central database to store inspection reports, notices and potentially safety cases.
- Provide guidance to the industry for consistency.

Recommendation:

That the:

- Ministerial Advisory Panel notes the feedback from the workshop; and
- DMP consider this information when developing the proposed Work Health and Safety (Resources) legislation for Western Australia.

Current regulations	Proposed regulation	Stakeholder Comments	DMP response
<p>1. Dangerous Goods Emergency Requirements</p> <p>Dangerous Goods Safety (Storage and Handling of Non-explosives) Regulations 68-76 (FES Emergency Response Guide, placarding)</p> <ul style="list-style-type: none"> Dangerous Goods Safety (Storage and Handling on Non-explosives) (DGS (S&H) Regulations provisions currently apply to MHFs and onshore petroleum, but not pipelines 	<ul style="list-style-type: none"> DFES requests consistency for responders Safety Case includes an Emergency Response Plan DMP is intending referencing the DGS (S&H) Regulations that impact on emergency response <ul style="list-style-type: none"> FES Emergency Response Guide (r. 76B) Placarding requirements (r. 69) Emergency information panel (r. 69) Fire control equipment (r. 73) Limited requirements offshore <p>Participants were reminded of the Esso Longford gas explosion, in which the operator was prosecuted for failing in their duty of care to Emergency Services Operators. This reinforces the case that an operation not only has a duty to its workers but also to emergency services.</p> <p>DFES and DMP officers provided insight into dangerous goods safety (DGS) legislation and requirements:</p> <ul style="list-style-type: none"> The DGS legislation considers workers, property and the environment. DMP's Dangerous Goods Officers have a role in emergencies and have emergency powers. While the inspectorate considers the safety of workers on a resources site, and checks for compliance to the legislation, they don't have a role in incidents themselves and have no legislative coverage of property or the environment. DFES is expected to respond to emergencies. However, if an operation does not inform DFES what facilities are on site, then DFES cannot be expected to respond appropriately. In the current DGS legislation, the DFES Commissioner has a number of powers, some of which will be carried forward in the proposed WHS (R) legislation. Emergency plans need to be available to DFES, including a site register, manifest, site plan and emergency plan. If DFES is not informed then the operator should have what is needed onsite. Material Safety Data Sheets (MSDSs) must be available to Emergency Services. Something to consider is, if everything is on computer and in an emergency there is no power, then how will Emergency Services be provided with information about the site? Details such as; Chemicals stored on site, their MSDS and where and how to disable services should be available to Emergency Services. 	<ol style="list-style-type: none"> Does DMP provide information to DFES? Do pipeline companies need to develop a FES-ERG? What if an operation has a private fire brigade onsite? The question to industry is should the Storage & Handling Regulations be referenced? This does mean more prescription, but is useful as it will provide consistency for emergency services. 	<ol style="list-style-type: none"> Yes – DMP does provide information to DFES. Pipeline companies would not need to complete an entire FES-ERG. The pipeline operator would need to provide an emergency contact, details of the operation and the pipelines location. DFES will support them as required. The Emergency Response Plan will need to detail the requirements. The operator's duty to emergency service workers and DFES's requirements to respond makes the addition of these provisions useful. These regulations need to be consistent with the rest of the State. Note that where DFES is unable to respond to a facility, such as an offshore facility, these regulations may not need to be applied.

	<ul style="list-style-type: none"> Under the WHS (R) legislation, registration of material is tied to the Globally Harmonised System of Classification and Labelling of Chemicals (GHS) classification system, which does not match dangerous goods classifications. GHS classification provides hygiene and personal exposure details, which are not of primary concern for the Emergency Services. If DFES does not know that particular products or services are onsite then they cannot plan strategically or tactically for an emergency situation that may involve those particular products. This information is not only for an incident on a particular site. DFES need to understand the potential impact on neighbouring sites that may adversely affect Emergency Services. The fire and emergency services emergency response guide (FES-ERG) provides necessary information to DFES, rather than the resource operation. This guidance material is for DFES, and not the local fire station or the resources site. The FES-ERG should be in a fixed format to assist DFES in case of an emergency. 		
<p>2. Radiation Management</p> <p>Radiation management plan - currently in Mines Safety and Inspection Regulations 1995, Part 16</p> <p>(Requirements and submission)</p> <ul style="list-style-type: none"> Currently, there are no specific provisions in petroleum and MHF legislation in relation to radiation 	<ul style="list-style-type: none"> DMP is considering the requirement for all sites with radiation to submit a Radiation Management Plan (RMP) for approval Radioactive material as per the Radiation Safety (General) Regulations – may include sensors and Naturally Occurring Radioactive Material (NORM) The regulations will be largely non-prescriptive Content of RMP to cover Hazard Identification, Risk Assessment and Control Measures. Resources Operator must appoint a Radiation Safety Officer RMP's may be published on the DMP website <p>This topic has high profile because of the political and public interest in how it is controlled and managed. Currently, petroleum and MHFs do not have specific regulations regarding radiation.</p> <p>Radiation management is covered in Part 16 of the Mine Safety and Inspection Regulations 1995. The Health Department is also involved through the Radiological Council, as specified in the <i>Radiation Safety Act 1975</i>. This means an operation needs to get dual approval, where appropriate.</p> <p>Majority of effort is spent considering naturally occurring radioactive material (NORM) or waste. This includes uranium mining, mineral sands, rare earth element mining as well as petroleum.</p>	<ol style="list-style-type: none"> Why is the RMP being made publically available? Attendees disagreed with the DMP response to Q1, considering the security and commercial implications of publishing the information. Why is the RMP a separate plan and not part of the Safety Case? Should the RMP be termed the Radiation Management <u>Safety</u> Plan? 	<ol style="list-style-type: none"> The Government is following a policy of transparency. This also has high political and public profile. DMP believes that security is a valid concern and will investigate further. Radiation is a hazard, and as such is could be identified and controlled through the Safety Case. However, radiation is of high public and political interest. Due to the chronic nature of radiation, it is easily overlooked as an MAE. No. This would be inconsistent with naming conventions from International recommendations <p>Further, other agencies are involved with the RMP, and these agencies have no access to the Safety Case.</p>

	<p>Consistency is maintained with National codes of practice that are issued by the Australian Radiation Protection and Nuclear Safety Agency, but enforced by the Radiological Council.</p> <p>Regulations are not prescriptive, but the Department expects operations to know how to manage radiation occurrence on their particular site and implement controls as required. Control measures are fairly straight forward and operations continually look at ways to improve.</p> <p>A significant amount of assistance is available in the DMP NORM Guidelines.</p> <p>The Resources Operator must appoint a Radiation Safety Officer. The problem lies with the current small number of competent Radiation Safety Officers. No Registered Training Organisations run courses on radiation management and few officers are able to get sufficient experience to improve their competencies. Courses are available however they do not fit into the national competency framework</p> <p>Currently, there is no specific provision covering radiation in the petroleum and MHF legislation. These new provisions will cover both product and waste, and will require a site with radioactive material and/or radiation hazards to submit a Radiation Management Plan (RMP) to DMP and/or Radiological Council for approval. These RMPs may become publically available.</p> <p>If radioactive material is above a certain limit then an RMP will be required. This RMP will need to be approved by the Department. This will run parallel to the safety case.</p> <p>The Department focuses on the safety aspects of the RMP, while other agencies consider potential impacts on public health and the environment.</p> <p>The requirement is for a dedicated RMP that is not only applicable to mining, but also petroleum and other industries.</p> <p>From the petroleum side it is more an inferred hazard and may be part of the risk assessment. A further problem is the disposal of radioactive material. It cannot be returned to source as may be the case with some mining operations.</p>	<p>5. Can the RMP be broken down into parts, with DMP only considering the safety aspects of the plan, and other aspects of the plan considered by other agencies?</p>	<p>(IAEA), other National and State legislation and Australian Standards.</p> <p>5. Yes, the Radiation Management Plan can take whatever form best suits the hazard profile of the operation.</p> <p>This may be a single document or a suite with each part covering a specific aspect of radiation safety to workers, member of the public or the environment.</p> <p>The RMP will however be assessed by all agencies as a whole, as each part will have to be consistent and not contradict other parts.</p>
<p>3. Health and Biological Monitoring</p> <p>Model WHS Chapters 7 and 8 (Occupational disease, health surveillance, health assessment, biological monitoring, notification of occupational disease)</p> <ul style="list-style-type: none"> Currently within the existing OSH Regulations, not specifically referenced in the petroleum legislation 	<ul style="list-style-type: none"> DMP is considering specific provisions for health and biological monitoring for Petroleum and MHF Monitoring would require a baseline and periodic examination / testing Required when workers are exposed to substances or conditions that may cause occupational diseases (e.g. asbestos, lead, mercury, known carcinogens) DMP is not intending to include audiometric testing DMP is considering UV and skin cancer <p>This is already an occupational safety and health (OSH) requirement under</p>	<p>1. If a worker has the potential to contract an occupational disease through work activities, should specific monitoring be required?</p> <p>2. If specific provisions are not included in the regulations, will general duty of care cover monitoring?</p>	<p>1. The duty of care and the workers compensation provisions will both apply, regardless of health surveillance. The monitoring will provide early warning of an issue.</p> <p>2. The operator's duty of care is to ensure that the workers do not contract an occupational disease. The general agreement was that specific regulations should not be</p>

	<p>OSH Regulations.</p> <p>Duties and requirements under the Workers Compensation Act will be the same and will not be replicated.</p> <p>The mining industry plans to legislate for a number of health and biological hazards that need to be monitored and controlled against. As these will be included with the Regulations, DMP asked attendees whether it is worthwhile to also apply to petroleum and MHF operations.</p> <p>Audiometric testing will not be required through the Regulations. WorkSafe agrees on this exclusion.</p>	<p>3. Does industry need legislation to get enforce health monitoring?</p> <p>4. Should provisions be included covering exposure to the sun and skin cancer?</p>	<p>included. However, industry may need legislation to be able to enforce health monitoring</p> <p>3. Health surveillance would only be required where the operator exposes its workers to substances which have the potential to cause an occupational disease. Substances such as heavy metals, asbestos, known carcinogens etc.</p> <p>4. The general consensus was that this is not required and it would be too onerous for an operation to monitor or enforce. In addition, skin cancer may take 20-30 years to develop.</p> <p>A number of companies already do this, additional regulatory requirements is unnecessary. It may be captured within codes of practice.</p> <p>Companies are expected to assess risks and implement controls accordingly.</p>
<p>5. Record Book</p> <p>Mines Safety and Inspection Act (audits/inspection reports, notices, safety case)</p>	<ul style="list-style-type: none"> Electronic database for each operation Accessible by all workers Stores Audit / Inspection Reports Improvement and Prohibition Notices Safety Case Revision Notices Mines require a log of the Site Senior Executive Possible to store a controlled copy of the Safety Case <p>The intent behind the Record Book in the mining environment was to instill open and transparent record keeping that was accessible to the whole workforce.</p> <p>The record book for petroleum and MHFs is envisaged to be an electronic database for each resources operation. This would be a central repository that is accessible to all workers. This may be housed on the DMP computers and become part of SRS. Inspector reports would be accessible to the operation and the regulator and is useful for communication between</p>	<p>1. General consensus is that this is not worthwhile. This would create duplication, as most operations already have similar systems. This may be a requirement of refining the connectivity between the operator and the regulator to allow access but not introduce duplication.</p> <p>2. Security needs to be ensured.</p> <p>3. What happens when computers are down?</p> <p>4. What happens when the</p>	<p>1. The database would be implemented and managed by DMP, not the operator. The database could act as the transmission service for Safety Case submissions and issuing Inspection Reports.</p> <p>2. The system will only permit access to an operator's database by workers for that operator.</p> <p>3. The Database will be stored on DMP's servers. Standard communication methods will remain open.</p> <p>4. The history and information</p>

	<p>the operation and the regulator.</p> <p>DMP asked whether it is worthwhile having a database for inspection reports, notices etc.</p>	operation changes ownership?	relevant to the facility will have to remain with the facility.
<p>5. Structure of the Regulations</p> <p>Structure options (Model WHS, Preliminary-generic-mines-safety case)</p>	<ul style="list-style-type: none"> Options for structure of regulations are to: <ul style="list-style-type: none"> remain consistent with the Model WHS Regulations OR: be restructured with: <ul style="list-style-type: none"> Generic division Petroleum and MHF division Mining division This depends to some degree on the feedback from this workshop <p>While the WHS (R) Bill follows the structure of the national model WHS Act, it is proposed for the WHS(R) Regulations <u>not</u> to follow the structure of the national model WHS Regulations.</p> <p>With the removal of numerous provisions, and an entire chapter in these Regulations, it is likely to be easier to read if restructured. If restructured, the regulations would likely have general sections (applicable to all) in addition to a mining section and a petroleum/MHF section.</p>	There was general consensus that restructuring the regulations was worthwhile.	DMP will consider this.
<p>6. Health and Safety Representatives</p> <p>Model WHS Chapter 2 (HSR elections, removal of HSR, training, cessation of unsafe work, workplace entry)</p>	<ul style="list-style-type: none"> DMP is intending to maintain consistency with WorkSafe Regulations include: <ul style="list-style-type: none"> Removal of HSR Training for HSR Issue resolution Currently, workplace entry will not be adopted <p>Consistency will be maintained with WorkSafe and general industry in WA. Under this proposal, training of HSR's would be through WorkSafe accredited trainers.</p>	Site-specific training organised by the operator would be more useful than a generic course.	Currently, the HSR trainers are those approved by WorkSafe and this will continue. However, DMP will investigate whether it could approve trainers for resources operations.
<p>7. Managing Risks</p> <p>Model WHS Chapter 3 Part 3.1 (Identification of hazards, hierarchy of controls, risk, control measures)</p>	<ul style="list-style-type: none"> These regulations are not prescriptive DMP is considering the retention of these regulations, which include: <ul style="list-style-type: none"> Identification of hazards Hierarchy of control measures Maintenance of control measures Review of control measures Considering the addition of a 'risk assessment' regulation 	General consensus was that these provisions should remain.	DMP will retain these duties for petroleum and MHF operations.
<p>8. General Workplace Management</p>	<p>DMP is considering the retention of the following regulations:</p> <ul style="list-style-type: none"> Provision of information, training and instruction 	General consensus was to retain the duties around the controls, but	DMP will retain the duties for petroleum and MHF operations.

<p>Model WHS Chapter 3 Part 3.2 (Provision of information, duties for facilities, first aid, PPE, remote work, airborne contaminants, hazardous atmospheres, falling objects)</p>	<ul style="list-style-type: none"> • Duty in relation to general workplace facilities (layout, lighting, ventilation, extremes of heat/cold) • Duty to provide facilities (toilets, drinking water, washing facilities, eating facilities) • Duty to provide first aid (F/A equipment, training) • Provision and use of PPE (provision, use, maintenance, instruction, duty of worker) • These regulations are not prescriptive • Reasonably practicable applies in all cases for these controls <p>DMP is considering removing the following regulations (or making them mining-specific):</p> <ul style="list-style-type: none"> • Emergency plans • Remote or isolated work • Exposure to substances • Monitoring airborne contaminants • Hazardous atmospheres • Ignition sources • Storage of flammable or combustible substances • Falling objects <p>There is still a duty on the operator to identify all hazards and implement control measures</p>	<p>remove any prescriptive requirements about the controls.</p>	<p>Some of the prescriptive controls may be captured within the mining specific provisions.</p>
<p>9. Hazardous Work Model WHS Chapter 4 (Noise, manual tasks, confined spaces, falls, high risk work licensing, supervision, demolition, electrical)</p>	<p>DMP is considering the removal removing this whole chapter for petroleum and MHF (or making it mining-specific)</p> <p>The resource operation will retain the duty to ensure workers are competent to carry out certain tasks and the operations safety management system should have procedures to manage hazardous work.</p> <p>Regulations include:</p> <ul style="list-style-type: none"> • Noise • Hazardous manual tasks • Confined spaces • Falls • Demolition • Electrical safety • High Risk Work Licence <p>Electrical licences will be retained, as Energy Safety is the regulator.</p>	<p>Do licences make a worker competent?</p>	<p>No. The operator must ensure a worker is competent and experienced for the task to be carried out.</p>

<p>10. Plant and Structures</p> <p>Model WHS Chapter 5 Part 5.1 Divisions 1 to 6 (Provision of information, hazard identification at design, duties of designer, control of risk by manufacturer, duties for commissioning)</p>	<p>DMP is considering the retention of the following regulations:</p> <ul style="list-style-type: none"> • Duties of designer (provision of information, review hazards raised by manufacturer) • Duties of manufacturer (control of risk, obtain and provide information) • Duties of importer/supplier (control of risk, obtain and provide information, second hand plant) • Duties of installer/commissioner <p>DMP is considering removing (or making mining-specific) the following regulations:</p> <ul style="list-style-type: none"> • Guarding, controls, emergency stops, warning devices (may include as a generic duty) • Second hand plant to be used for scrap • Generic management of risks to health and safety 	<p>General consensus was to retain the general duties for plant and structures.</p>	<p>The prescriptive controls for plant and structures will be removed.</p>
<p>11. General Duties Involving the Control of Plant</p> <p>Model WHS Chapter 5 Part 5.1 Division 7 (control of risks, preventing unauthorised alterations, proper use of plant, guarding, powered mobile plant)</p>	<p>DMP is considering removing (or making mining specific) Chapter 5, Part 5.1 Division 7. Regulations include:</p> <ul style="list-style-type: none"> • risks from installation and commissioning • unauthorised alterations • proper use • plant not in use • guarding • operational controls, emergency stops, warning devices • mobile plant, lifting plant • pressure equipment • scaffolds etc. 	<p>General consensus was to remove the prescriptive requirements involving the control of plant.</p>	<p>Some provisions may be retained as mining specific regulations.</p> <p>Note that the regulations will not refer to any Australian or international standards.</p>
<p>12. Registered Plant</p> <p>Model WHS Chapter 5 Parts 5.2 and 5.3 (Registration of mobile cranes, pressure vessels etc. and the duties)</p> <ul style="list-style-type: none"> • Petroleum legislation currently does not require plant registration. • MHFs are currently required to register plant under the 	<p>DMP is considering removing (or making mining specific) the following parts:</p> <ul style="list-style-type: none"> • Part 5.2 Additional duties relating to registered plant • Part 5.3 Registration of plant <p>DMP intend to remove the requirement to register plant at MHFs and petroleum facilities. Note that validation of the facility may apply to the facility.</p> <p>Mine safety provisions will continue to require registration of plant designs.</p>	<p>No issues raised.</p>	<p>The prescriptive controls for the registration of plant will be made mining specific.</p>

OSH Act			
<p>13. Construction Work</p> <p>Model WHS Chapter 6 (Construction induction training certificate - White Card)</p>	<p>DMP is considering removing (or make mining-specific) the entire Chapter. Regulations include:</p> <ul style="list-style-type: none"> • Duties for person who commissions construction work • Security of the workplace • High risk construction work • Excavation work <p>Mining considering retaining the Induction Training Cards.</p> <p>A dedicated chapter on construction will not be needed in the WHS (R) Regulations, as construction on MHFs and petroleum operations will be covered in the Safety Case.</p> <p>There will be no requirement for a worker to have a “white card”.</p>	<p>No issues raised.</p>	<p>The prescriptive controls for construction work will be removed.</p>
<p>14. Hazardous Chemicals</p> <p>Model WHS Chapter 7 Part 7.1 (Labelling, SDS, register, safety signs)</p>	<ul style="list-style-type: none"> • DMP is intending to maintain consistency with WorkSafe (retain occupational hygiene, removal of DGS requirements) • Applicable DGS (S&H) provisions will be referenced in Chapter 9 • Generally duties to store and handle Hazardous Chemicals without affecting Health and Safety will apply • DMP to consider provisions for: <ul style="list-style-type: none"> – Labelling of containers and pipe work (to GHS) – Obtain Safety Data Sheets – SDS Register – Prohibited substances <p>The model WHS Regulations covers dangerous goods. However, WorkSafe is intending to remove the equivalent dangerous goods requirements as these are adequately covered in the Dangerous Goods Safety Act. WorkSafe intend to focus on the Occupational Safety and Hygiene components, and DMP would maintain consistency.</p>	<ol style="list-style-type: none"> 1. Previous legislation listed chemicals and handling requirements. General consensus was this was not beneficial and too prescriptive. 2. It was also agreed that labeling of containers (to GHS), obtaining safety data sheets (SDS) and maintaining a SDS register was covered in the OSH Regulations and need not be covered in the WHS (R) Regulations. These can be dealt with in the Safety Case. 	<ol style="list-style-type: none"> 1. Prescriptive Dangerous Goods handling requirements will not be included in the regulations. 2. The OSH regulations will not be applied to petroleum and MHF operations. DMP will consider making the prescriptive occupational hygiene requirements mining specific.
<p>15. Lead</p> <p>Model WHS Chapter 7 Part 7.2 (Precautions where persons may be exposed to lead)</p>	<p>DMP is considering the removal (or make mining specific) the entire Part 7.2</p>	<p>General consensus was to remove these prescriptive provisions as they are not required.</p>	<p>The prescriptive requirements for lead will be removed.</p>
<p>16. Asbestos</p> <p>Model WHS Chapter 8 (Prohibition of work with asbestos, asbestos identification, asbestos management plan, asbestos)</p>	<p>DMP is considering the removal (or make mining specific) the majority of the Chapter.</p> <p>DMP is considering retaining the following regulations:</p> <ul style="list-style-type: none"> • Work involving asbestos – prohibitions and exceptions: <ul style="list-style-type: none"> – The provision stating asbestos is a substance which is not 	<p>General consensus was to remove most of the chapter.</p>	<p>DMP will retain the prohibition of asbestos and asbestos containing materials. The exceptions will be retained.</p>

removal, licensing)	<p>permitted on site will be retained.</p> <ul style="list-style-type: none"> – Exceptions involving asbestos will be retained. This will permit operators to maintain facilities which were constructed with asbestos containing material prior to the ban. Restrictions will apply on the disturbance of asbestos. <ul style="list-style-type: none"> • Asbestos to be identified or assumed at a workplace <p>Mining will include provisions involving naturally occurring asbestos.</p>		
17. General Provisions Model WHS Chapter 11 (Reviewable decisions)	<ul style="list-style-type: none"> • DMP is considering the retention of Part 11.1 Review of Decisions, inclusive of the following Divisions: <ul style="list-style-type: none"> – Reviewable decisions – Internal review – External review (OSH Tribunal / State Administrative Tribunal - SAT) <ul style="list-style-type: none"> • DMP to discuss the ability to appeal a Safety Case with Dept. of Justice to assess whether it is appropriate to refer decisions on the Safety Case to the SAT. • DMP is considering the retention of Part 11.2 Exemptions and 11.3 Miscellaneous 	General consensus was to retain Part 11.1 Review of Decisions, Part 11.2 Exemptions and Part 11.3 Miscellaneous.	DMP will discuss the ability to review Safety Case decisions with the Department of Justice.

Safety Case Workshop Update

DMP provided an update on progress with issues raised at the 3 December 2015 Safety Case Workshop:

1 Safety Case

DMP is investigating the process of formalising early engagement. A design intent/philosophy for the facility would be submitted early in the design process (similar to the HSE process). DMP is also considering making the Safety Case content more design-focused.

2 Threshold notification

DMP is investigating the MHF notification thresholds. Not all hazardous chemicals are dangerous goods such as toxic chemicals. The European thresholds are being considered.

3 Validation

Independent validation may be tied to the Safety Case acceptance process. In this process the scope of validation would be agreed early in the process.

4 Incident definitions

The incident definitions are being modified to reduce confusion. Occurrences which can be used as lead indicators would be moved to the monthly report.

5 Notification of operation

The consent requirement has been replaced with a notification. This is applicable to MHFs and designates when payment of fees commences

6 Safety Case revision

Revision of the Safety Case will be retained as is currently done.

7 Site Senior Executive

Definition and application is under review.



Occupational Health and Hygiene Workshop Report

Background

The Work Health and Safety (Resources) (WHS (R)) legislation will consolidate safety provisions under one Act and one set of regulations, covering mining, petroleum and major hazard facilities (MHFs). While improving consistency across the resources industries, the proposed legislation will not take a “one size fits all” approach. With the resources safety legislation being less prescriptive, innovation and new technologies can be engaged to improve safety outcomes.

The Department of Mines and Petroleum’s (DMP’s) Bill is based on the national model WHS Act, but the supporting regulations will be customised to suit Western Australia.

DMP committed to a full and open consultation process during development of the proposed Work Health and Safety (Resources) legislation.

Consultation on the proposed content of the Bill has been completed and it is currently being drafted by Parliamentary Counsels Office. Consultation on the supporting regulations has commenced.

This workshop covered occupational health and hygiene provisions in the regulations, affecting the mining industry.

Objectives

The key principles for the safety legislation reform are:

- modernising, consolidating and simplifying legislation
- removing prescription and duplication
- providing consistency across different industry sectors
- using codes of practice and guidelines for further guidance and detail.

Workshop consultation process

Member groups on the Ministerial Advisory Panel for Safety Legislation Reform (MAP) were asked to invite representatives from industry, unions and the regulator to participate in a workshop held on 11 April 2016, with 25 people attending.

Briefing papers were provided prior to the workshop. To assist in finalising policy positions, attendees were requested to provide reasons and evidence to support alternatives to the proposed concepts. After the workshop, meeting notes were prepared and distributed to attendees for comment. Written submissions were also encouraged, but none were received.

Stakeholders will have further opportunities to comment on the proposed legislative changes through MAP; other workshops and stakeholder meetings; additional written submissions to DMP; and the Regulatory Impact Statement (RIS) public consultation process on the regulations in mid-2016.

Final drafting of the regulations will be controlled by the Parliamentary Counsel's Office.

Current legislation

The current mine safety provisions are contained within the *Mines Safety and Inspection Act 1994* (MSIA) and Mines Safety and Inspection Regulations 1995 (MSIR). Occupational health and hygiene is covered in Part 3, 4, 7, 9, and 16 of the MSIR.

The *Mines Safety and Inspection Act 1994* (MSIA) has provisions covering 'general duty of care' in section 9 of the Act. However, the Mines Safety and Inspection Regulations 1995 (MSIR) is, in general, prescriptive and restrictive in nature, and may not be able to deal with all possible scenarios.

Proposed Work Health and Safety (Resources) Regulations

Section 19 of the proposed WHS (R) Act, which replaces section 9 in the MSIA, covers duty of care for Resources Operations.

The proposed WHS (R) Regulations will use a risk-based approach, requiring all mining operations to prepare a Mine Safety Management System (MSMS). The MSMS is a framework to demonstrate how the mining operation will control hazards and manage risk. An inspector can issue an improvement notice if an operation does not adequately control the risks. The mining operation can also be instructed to review their MSMS, if deemed to be inadequate.

Part 3.1 of the proposed WHS (R) regulations supports the MSMS. It addresses the management of risks to health and safety throughout the mining operation.

Key components of an MSMS are:

- Health and Safety policies
- Identified hazards, risk assessment and control management
- Management and supervision
- Competency of persons
- Principal Hazard Management Plans (PHMPs)
- Planning, designing, practices and procedures
- *NOTE: Principal Control Plans (PCPs) are not required.*

Recommendation:

That the:

- **Ministerial Advisory Panel notes the feedback from the workshop; and**
- **DMP consider this information when developing the proposed Work Health and Safety (Resources) legislation for Western Australia.**

Current regulations	Proposed regulations	Stakeholder comments	DMP response
General comments	<p>It is worth noting two new terms that are being introduced through the proposed WHS (R) legislation. The 'Person Conducting a Business or Undertaking (PCBU)' replaces 'employer' and 'worker' replaces 'employee'. This should help to simplify the 'duty of care' relationship established between these two parties.</p> <p>The term 'health' has been defined and now includes mental health. This broadens the scope of the legislation.</p>	<p>No issues raised.</p> <p>Post workshop comments from UnionsWA</p> <p>Strongly supportive of the broadening of the definition of health to incorporate mental health</p>	N/A
<p>1. Health assessment</p> <p>MSIR 3.23, 3.25, 3.26, 3.27, 3.28, 3.30, 3.31, 3.35, 3.38, 3.40.</p> <p>Model WHS Regs.</p>	<ul style="list-style-type: none"> Model WHS Regs require health monitoring with specific details for asbestos, lead, and other hazardous chemicals. These prescriptive regulations have not been adopted. Some of these details will be covered in respective Codes of Practice/Guidelines. The proposed regulations are based on MSIR, with reduced prescription. Definitions will be based on MSIR 3.23. Additional definitions may be added if required. Initial and periodic health assessment (MSIR 3.25, 3.26, 3.27) were discontinued in 2013 and are not to be reintroduced Health assessment and biological monitoring based on exposure and risk profile Occupational health information to be provided to workers Results to be provided to the worker 'Accepted standards' for biological monitoring to be provided in code of practice Exceedances, diseases, illness to be notified Mine operator to take remedial actions Regulator may request additional biological monitoring and health assessment <p>The following MSIR regulations are not considered necessary:</p> <ul style="list-style-type: none"> 3.29 Categories of employees who do not require health surveillance 3.33 Department to keep records 3.34 Mines occupational physician 3.36 Employee may request a copy of record 3.37 Employer may find out whether employee has previously been assessed 7.30 Health surveillance <p>A resources facility operator will be required to establish and maintain a system for health surveillance of their workers. This includes a worker health assessment and biological monitoring of hazardous substances in the work environment.</p> <p>The type and frequency of health assessments will be defined by operator based on a risk assessment of worker activities, and not prescribed by the regulator.</p> <p>Biological monitoring will be carried out on workers who engage in occupational exposure work at the resources facility.</p> <p>Regulation 36A is being introduced to ensure a site specific risk assessment is undertaken by a competent person.</p>	<ol style="list-style-type: none"> What happens if the risk assessment by a contractor is different from that of the mine operator? How will Australian Standards be referenced in the Regulations? Where is mental health incorporated into the Regulations? Can de-identified information be provided to other workers as a group reporting? <p>Post workshop comments from UnionsWA</p> <p>Good that results are provided to a worker – will the usual requirements for employers to also hold the records be kept?</p>	<ol style="list-style-type: none"> A mine safety management system (MSMS) incorporates risk assessments. A contractor is required to follow their own safety management system (SMS), which must have been accepted by the mine operator, or the MSMS of the mine operator. Standards will be called on in applicable codes of practice and generally will not be referenced in the Regulations. There will be no specific regulation covering mental health. However, as with all diseases, if the disease is work related the regulator must be notified as required. Yes, if it is statistical information, and is useful knowledge or information for the workers.

	<p>Because of privacy issues, health monitoring reports and results must not be disclosed to another person. If a broader issue is identified, the regulator may decide to identify aspects that are relevant to the broader community.</p> <p>Any notifiable diseases and exceedances are to be notified to DMP through the online Safety Regulation System (SRS).</p>		
2. Occupational diseases MSIR 3.39	<ul style="list-style-type: none"> occupational disease means — <ul style="list-style-type: none"> (a) a disease of a kind referred to in the Workers' Compensation and Injury Management Act 1981 Schedule 3; or (b) any other condition that results from exposure in a workplace to agents or substances to the extent that the normal physiological mechanisms are affected and the health of the employee is impaired as a consequence; Notice to regulator <p>Occupational diseases need to be notified, as soon as practicable, to the regulator through SRS on a prescribed form to maintain consistency in reporting.</p>	No issues raised	N/A
3. Atmospheric Standards MSIR 9.11, 9.15.	<ul style="list-style-type: none"> Definitions based on MSIR – more may be added. Exposure standards, if not prescribed: <ul style="list-style-type: none"> Respirable dust: 3.0 mg per cubic metre Inhalable dust: 10 mg per cubic metre Oxygen: not less than 18% Air temperature and humidity: based on risk – details to be in a code of practice. This is based on MSIR 9.15, with prescription removed. MSIR 9.2 Determination of different exposure standard - not required. <p>Exposure Standards, as published by Safe Work Australia, apply to all mines. It replaces the current National Occupational Health and Safety Commission (NOHSC) document.</p> <p>Prescribed exceedances of respirable and inhalable dust that are not prescribed in the Exposure Standards have been incorporated into the proposed WHS (R) Regulations as they have been carried over from the MSIA.</p>	1. Is this applicable to pipelines? 2. General consensus supported these prescriptive details being incorporated within a code of practice.	1. Yes. However, most of this will be covered in the safety case, where much of the prescriptive legislation does not apply. 2. The minimum atmospheric standards, as suggested, will be in the regulations. Other details on monitoring methods and frequency, possible controls, etc. will be in a code of practice.
4. Atmospheric monitoring and controls MSIR 10.48 Model WHS Regs r.50	<p>Monitoring atmospheric comfort condition and contaminants</p> <ul style="list-style-type: none"> Monitoring for comfort condition and atmospheric contaminants (based on modified version of model WHS Reg 50) Needs based – ‘not certain’ or ‘determination of health risk’ Results accessible to workers Exceedances to be reported to regulator Details will be in a code of practice (CoP). <p>Heat, humidity and contaminants Principal Hazard Management Plan (PHMP)</p> <ul style="list-style-type: none"> This is a Specified PHMP in the MSMS Identify hazards: Heat, humidity, atmospheric contaminants, hazardous 	1. Are certain PHMPs being prescribed in the Regulations? 2. What is DMP doing about Diesel Particulate Matter	1. Prescribed PHMPs include: <ul style="list-style-type: none"> ground failure inundation or inrush of any substance failure of winding systems collision of mobile equipment heat, dust or other airborne contaminants fire or uncontrolled explosion gas outbursts ionising radiation 2. A code of practice (CoP) will be developed to provide guidance

	<p>atmosphere</p> <ul style="list-style-type: none"> • Monitor atmosphere • Establish controls: <ul style="list-style-type: none"> – Manage heat, humidity, cold – Minimise generation of and remove, suppress, dilute atmospheric contaminants – Minimise exposure of workers <p>Principal Hazard Management Plans (PHMPs) are predefined control plans for hazards that have the potential to cause multiple fatalities.</p> <p>Each mine operator is required to assess the site's hazards and, where applicable, develop and implement appropriate PHMPs. Only those PHMPs that are applicable to the mining operation are required to be developed.</p> <p>An atmospheric contaminant PHMP is one such management plan that an operation must have in place if the nature of the operation warrants it.</p> <p>Principles for developing a PHMP and templates to assist industry will be incorporated in a guideline.</p> <p>A mine operator may want to utilise a PHMP across a number of sites. However, it should be remembered that most hazards are site specific due to the unique nature of each operation. In such a case, the mine operator will need to demonstrate the applicability of the PHMP.</p> <p>Principal Control Plans (PCPs) will no longer be required.</p> <p>Underground Ventilation</p> <ul style="list-style-type: none"> • Underground ventilation management to be part of PHMP • Identify hazards – underground specific • Design ventilation requirements and network including auxiliary ventilation • Integrate ventilation with planned production • Provide and maintain suitable ventilation devices and monitoring equipment • Risk based monitoring • Maintenance of ventilation plan and records including design calculations • Dealing with conditions below specified standards, breakdowns and emergencies • Isolation of and managing areas not ventilated • Procedures • Competencies <p>Use of diesel engines underground</p> <ul style="list-style-type: none"> • SSE to allow after making prescribed checks • Approval from regulator not required • Equipment and ventilation conditions to be maintained to continue use 	(DPM)?	and promote technological developments. Further work is also being undertaken.
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- Suitable and well maintained engine
- Suitable diesel fuel
- Exhaust treatment
- Air quantity and quality
- Fire control and suppression
- Monitoring atmosphere
- Details to be in CoP/guideline

Of particular significance is the use of diesel engines in the underground environment. The site senior executive (SSE) is required to approve, manage and record all diesel engines used underground. The SSE must also develop and implement a monitoring and maintenance program for the diesel engines and the underground environment.

The following MSIR regulations have been removed:

- 9.2 Determination of different exposure standard – not required
- 9.34 Electric vehicles underground – to be covered by UVCP and CoP
- 7.27 Risk assessment – PHMP will cover it.
- 7.28 Means of reducing risk of exposure to hazardous substances – PHMP will cover it.
- 7.29 Workplace atmospheric contaminant monitoring to be provided
- Diesel engines related – PHMP will cover it.
- 9.12 Control of atmospheric contaminants – PHMP will cover it.
- 9.13 Sampling of atmospheric contaminants – PHMP will cover it. Details will be in CoP.
- 9.14 Air in underground workplaces - UVCP to cover it.
- 9.16 Air sources - UVCP to cover it.
- 9.17 Suppression of dust — drilling operations – PHMP will cover it. Details will be in CoP.
- 9.18 Water used to suppress dust must not be polluted – PHMP will cover it. Details will be in CoP.
- 9.19 Use of dust collection and dust suppression appliances – PHMP will cover it. Details will be in CoP.
- 9.20 Ventilating fans and equipment - UVCP to cover it.
- 9.21 Control of air distribution underground - UVCP to cover it.
- 9.22 Fumes from blasting - UVCP to cover it.
- 9.23 Wetting down after blasting - UVCP to cover it.
- 9.24 Compressed air underground - UVCP to cover it.
- 9.25 Air conditioning and refrigeration - UVCP to cover it.
- 9.26 Tailings filled stopes — atmospheric contaminants - UVCP to cover it.
- 9.27 Ventilation system may be cut off in disused areas - UVCP to cover it.
- 9.30 Protection of employees from chemical fumes – PHMP will cover it.

	<p>Details will be in CoP.</p> <ul style="list-style-type: none"> • 10.52 Ventilating air requirements for diesel unit operations – will be in a CoP/guideline • 10.55 Opacity of exhaust emission – Not required – general exemption granted. • 10.50 Registration of diesel units used underground - Not required, currently general exemption has been granted. • 10.51 Specifications and testing of diesel units - Not required, currently general exemption has been granted. The conditions attached to the general exemption will be covered in a CoP. • 10.53 Exhaust treatment device – Will be covered in CoP/guideline. • 10.54 Undiluted exhaust gas sampling – Will be covered in CoP/guideline. • 10.56 Testing costs, methods and equipment – not required. • 10.57 Records – Will be covered in a CoP/guideline. 		
<p>5. Hazardous Chemicals (HC)</p> <p>MSIR 7.21 – 7.25. Model WHS Regs r.341 – 344, 346, 351,353, 363, 364.</p>	<ul style="list-style-type: none"> • Definition of <i>hazardous chemical</i> will use the definition in model WHS Regs • Dangerous Goods Safety Act (DGSA) applies to all mines • Like MSIR, some regulations are retained • Hazardous chemicals to be classified and labelled as per Global Harmonised System (GHS) of classification • DGSA provisions will be amended – will accept GHS • Bulk transport will generally follow Australian Dangerous Goods Code (ADG Code) • Hazardous chemicals in pipes to be identified by label, sign or other way • Safety data sheet (SDS) to be made available • Hazardous chemicals register – include HC list and SDS • Safety signs • Storage and handling systems <ul style="list-style-type: none"> – Used only for the designed purpose – Managed having regard to health and safety of workers • Manage risk from using, handling, generating or storing hazardous chemicals <p>The PCBU must manage risks to health and safety associated with using, handling, generating or storing a Hazardous Chemicals (HC) at a workplace.</p> <p>HC will be classified and labelled following GHS classification. The DGS legislation currently supports classification as per the ADG code. It will be amended to accept classification based on GHS. For bulk transport, ADG classification will be followed.</p> <p>Pipe work labelling</p> <p>The pipe work covered by these provisions are those that carry HC on mine sites. All labelling of pipe work must be under GHS.</p>	<ol style="list-style-type: none"> 1. The definition of container in the model WHS legislation is very broad. For example, a fuel tanker may be defined as the driver's place of work. Is GHS labelling required for all containers? 2. Safety Signs: General consensus was that this was too prescriptive and should be in CoP, rather than the Regulations. 	<ol style="list-style-type: none"> 1. The container definition will be reviewed. 2. Agreed. Some of the prescription will be moved to CoP.

	<p>MHF and petroleum pipelines are covered under a Safety Case and are excluded.</p> <p>HC Register</p> <p>A register of all hazardous chemicals that are produced, used, handled or stored on site must be prepared and maintained by the PCBU. The information on the register must include current safety data sheets.</p> <p>In addition to this register being readily accessible to any worker involved with the HC, it must be available to anyone else who is likely to be affected by a hazardous chemical at the workplace, such as emergency services</p> <p>The following MSIR regs were replaced by model WHS Regs:</p> <ul style="list-style-type: none"> • MSIR r. 7.21 is replaced by model WHS Reg 344 • MSIR r. 7.22 is replaced by model WHS Reg 364 • MSIR r. 7.23 Disposal of containers is deleted • MSIR r. 7.24 is replaced with model WHS regs 341, 342, and 343 • MSIR r. 7.25 is replaced with model WHS Reg 346 		
<p>6. Asbestos</p> <p>MSIR 9.32, 9.32A, Model WHS Regs 422, 429</p>	<ul style="list-style-type: none"> • ‘Work involving asbestos’ – prohibitions and exceptions (replaces MSIR 9.32A) <ul style="list-style-type: none"> – PCBU must not carry out, or direct or allow a worker to carry out, work involving asbestos. – Exceptions include: <ul style="list-style-type: none"> ▪ management of naturally occurring asbestos (NOA) during mining operations that involve the extraction of, or exploration for, a mineral other than asbestos in accordance with an asbestos management plan ▪ sampling and identification in accordance with Asbestos Management Plan (AMP) ▪ removal or disposal of asbestos or asbestos containing material (ACM), including demolition, in accordance with these Regulations ▪ the transport and disposal of asbestos or ACM/asbestos waste in accordance with the Occupational Safety and Health Regulations 1996; • Asbestos to be ‘identified’ by competent person (model WHS reg 422) • Notification of asbestos - Inform and record in ‘Asbestos Register’ if Asbestos, ACM, or NOA identified • Removal of Asbestos and ACM - as per model WHS Reg 429, replaces MSIR 9.32. Does not apply to NOA. • Asbestos Management Plan - if identified or likely to be found - replaces MSIR 9.33 Control of contaminant asbestos • Precautions listed <p>A general prohibition exists on work involving asbestos and asbestos containing material (ACM). Exceptions do exist; however, all work must be in accordance with an asbestos management plan (AMP).</p> <p>The AMP forms part of the MSMS, and must be prepared and maintained wherever asbestos, ACM or naturally occurring asbestos (NOA) is identified at a mine site. In this regard we need to adopt two Codes of Practice developed by Safe Work</p>	<ol style="list-style-type: none"> 1. Does the NOHSC Code of Practice for the Safe Removal of Asbestos 2nd Edition apply? 2. Why are the two Safe Work Australia codes of practice being adopted? 	<ol style="list-style-type: none"> 1. Yes. Asbestos removal can be undertaken by persons approved under the OSH Regulations. These regulations require removal work to follow NOHSC:2002 (2005) – second edition. 2. As stated above, an approval under OSH Regulations is required for asbestos removal work and that legislation currently recognises the NOHSC code. WorkSafe is in the process of reviewing legislation. Appropriate changes will be made after changes to the OSH legislation are complete.

	<p>Australia, but the proposed regulation is aligned to OSH Regulations and therefore the NOHSC Code has been referred to.</p> <p>As with any workplace hazard, whenever asbestos is encountered, a risk assessment must be undertaken.</p> <p>Where exploration or mining takes place in an area containing or likely to contain asbestos, then an AMP must be prepared and maintained.</p> <p>The SSE must notify the regulator and record in the Asbestos Register if asbestos, ACM or NOA is identified at the mine site. This notification will be through SRS.</p> <p>The asbestos removal work regulation only involves removal of asbestos and ACM, not NOA.</p> <p>Transportation of ACM or NOA is the responsibility of the SSE while on the mine site. Outside the mine boundary general OSH legislation is applicable and WorkSafe becomes the responsible regulator.</p>		
<p>7. Lead</p> <p>MSIR – no equivalent regs</p> <p>Model WHS Regs – Part 7.2</p>	<ul style="list-style-type: none"> • ‘Lead Risk Work’ – when potential of exposure • PCBU/Mine operator to assess • Inform regulator if lead risk work is carried out at a mine • Precautions where persons may be exposed to lead are listed • Remove worker from ‘lead risk work’ if lead in blood exceeds prescribed values or recommended by medical practitioner • Notify regulator <p>At present no specific regulations exist for lead.</p> <p>Based on risk assessment, a PCBU determines the potential for workers to be exposed to lead.</p> <p>Health monitoring due to ill effects of lead and other contaminants will be consolidated at one place rather than being repeated in each chapter.</p> <p>All exceedances need to be notified to the regulator through SRS.</p>	<p>General consensus was that details are too prescriptive and should be in a code of practice rather than the Regulations.</p>	<p>Exceedance standards for removal of a person from lead risk work will be in the regulations. Other prescription will be in CoP.</p>
<p>8. Radiation</p> <p>MSIR Part 16</p>	<ul style="list-style-type: none"> • Terms to be aligned with Australian Radiation Protection and Nuclear Safety Regulations 1999 (ARPANSA/R) • Application: <ul style="list-style-type: none"> – Prescribed minerals mined – Radiation source and irradiating apparatus used – Effective dose likely to exceed 1 millisieverts per year – Public likely to receive half the above dose due to mining • Operations to commence after Radiation Management Plan (RMP) approved by Regulator • RMP content and scope defined • To be supported by code of practice/guideline • Person under 16 not to be employed if effective dose likely to increase prescribed limit 	<ol style="list-style-type: none"> 1. Attendees were concerned about DMP’s plan to make RMPs publically available. 2. How will naturally occurring radioactive material (NORM) be handled in the Regulations? 	<ol style="list-style-type: none"> 1. Advice is being sought on what part of the RMP and how much detail is to be made available. The Department notes the concerns raised during the workshop and will consider the consequences further. 2. NORM will be dealt with as per the RMP. Reference will be made to the <i>Australian Radiation Protection and Nuclear Safety Act 1998</i>.

- Dose limits as per ARPANSA/R
 - Pregnant employees must cease to be 'designated employee' – to be aligned to ARPANSA/R
 - Approval to remove radioactive material
 - Approval to import radioactive mineral
 - Audit of sealed radiation sources and irradiating apparatus – annually or shorter intervals
 - copy to be sent to regulator
- The following regulations from MSIR have been deleted:
- 16.3 State mining engineer may exempt mine
 - 16.4 Authorised limits
 - 16.5 Dose constraints
 - 16.6 Results of baseline monitoring program - *to be part of Radiation Management Plan (RMP)*
 - 16.8 Radiation management plan to be complied with - *being part of MSMS, it is covered*
 - 16.10 Defects – *RMP will cover it*
 - 16.11 Notification - *Covered as part of general notifications*
 - 16.12 Supervised areas and controlled areas - *To be covered in the RMP and Code/Guideline*
 - 16.14 Designated employees - *To be covered in the RMP and CoP/guideline*
 - 16.15 Reduction of doses - *To be covered in the RMP and Code/Guideline*
 - 16.16 Control of exposure to radiation - *To be covered in the RMP and Code/Guideline*
 - 16.17 Respiratory protective equipment - *General PPE regulation will cover it.*
 - 16.21 Approval of different dose limit
 - 16.23 Assessment of doses – *To be covered in code of practice/guideline*
 - 16.24 Reporting of results of dose assessment - *Covered under general reporting requirements/code of practice*
 - 16.25 Records - *To be covered in the RMP and Code/Guideline*
 - 16.26 Reporting of certain matters to State mining engineer - *To be covered in the RMP and Code/Guideline*
 - 16.30 Storage of monazite, thorium, uranium or xenotime concentrate - *To be covered in RMP and Code/Guideline*
 - 16.31 Stockpile management - *To be covered in RMP and Code/Guideline*
 - 16.32 Disposal of waste material - *To be covered in RMP and COP/guideline*
 - 16.33 Best practicable technology - *Not required*
 - 16.34 Discharges - *To be covered in RMP and Code/Guideline*

	<ul style="list-style-type: none"> • 16.35 Long term waste management • 16.37 Use of sealed radiation sources and irradiating apparatus - <i>to be covered in RMP and Code/Guideline</i> <p>This topic has a prominent profile because of political sensitivity and public interest. The proposed provisions do away with a lot of the prescription.</p> <p>This Division only applies where:</p> <ul style="list-style-type: none"> • Minerals, as prescribed, are mined • Radiation sources are used • Workers are likely to receive doses over a prescribed level • Members of the public are likely to receive doses over a prescribed level <p>A radiation management plan (RMP), which forms part of the MSMS or safety case, is required if the Division above applies. This RMP must be approved by the Regulator before any operation commences.</p> <p>Current plan is for RMPs to be made publically available.</p>		
9. Noise MSIR Part 7 Division 1 Model WHS regs Part 4.1	<ul style="list-style-type: none"> • Exposure standard for noise (a) LAeq,8h of 85 dB(A); or (b) LC,peak of 140 dB(C) • Noise control plan to limit exposure <p>An appointed noise officer must prepare and maintain a Noise Control Plan, which forms part of the MSMS.</p> <p>The following MSI Regulations are removed:</p> <ul style="list-style-type: none"> • 7.2 All measurements to be as if ear unprotected • 7.5 Reduction of noise - <i>Not required</i> • 7.6 Personal hearing protectors - <i>Not required, covered in general provision re PPE.</i> • 7.7 Duty to inform, instruct and train persons about hearing risks - <i>Not required, covered in regulations requiring induction and training.</i> • 7.8 Noise report to be prepared - <i>Not required— details to be in a guideline.</i> • 7.9 Additional noise report to be prepared - <i>Not required.</i> • 7.10 Noise reports - <i>Not required. Position of noise officer is required in statutory positions part.</i> • 7.11 Duties after noise report is prepared – <i>not required.</i> 	Why do these regulations retain the prescriptive exposure standards?	Considering the hazard and its effect, the maximum exposure standards need to be prescribed. PCBU/mine operator needs to describe how noise exposure is minimised in the Noise Control Plan.
10. Hygiene, sanitation and other facilities MSIR: 4.1, 4.24 – 4.29, 7.12 – 7.19 Model WHS Regs 41,	Hygiene Facilities (model WHS Reg 41, replaces MSIR 7.12 – 7.13; 7.17 – 7.19) <ul style="list-style-type: none"> • Duty to provide and maintain adequate and accessible facilities: <ul style="list-style-type: none"> – Drinking water – Eating facilities – Washing facilities 	No issues raised	N/A

42, 44	<ul style="list-style-type: none"> - Toilets - Change rooms for underground mines • Clean, safe, accessible, in good working order • Must consider: <ul style="list-style-type: none"> - Nature of work - Hazards - Size, location, nature of workplace - Number and composition of workers <p>The following hygiene-related MSI Regulations to be covered in a guideline:</p> <ul style="list-style-type: none"> • 7.14 Prevention of pollution of workings • 7.15 Waste timber and other materials not to accumulate underground • 7.16 Stagnant water not to accumulate underground <p>First aid (model WHS Reg 42, replaces MSIR 4.24 – 4.29)</p> <ul style="list-style-type: none"> • Must provide: <ul style="list-style-type: none"> - First aid equipment - Vehicle equipped to transport injured/sick - Access to facilities - Trained persons to administer first aid • Must consider: <ul style="list-style-type: none"> - Nature of work - Hazards - Size, location, nature of workplace - Number and composition of workers <p>Personal protective equipment (PPE) (model WHS Reg 44, replaces MSIR 4.1)</p> <ul style="list-style-type: none"> • Must provide, if required, PPE • PPE must be: <ul style="list-style-type: none"> - Selected based on nature of work and associated hazards - Of suitable size, fit, reasonably comfortable - Maintained, repaired or replaced to be clean, hygienic and in good working order <p>The numbers and types of facilities will depend on the operation and will be assessed and provided by the PCBU. This will not be prescribed in the regulations.</p>		
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Plant and Structures Workshop Report

Background

The Work Health and Safety (Resources) (WHS (R)) legislation will consolidate safety provisions under one Act and one set of regulations, covering mining, petroleum and major hazard facilities (MHFs). While improving consistency across the resources industries, the proposed legislation will not take a “one size fits all” approach. With the resources safety legislation being less prescriptive, innovation and new technologies can be engaged to improve safety outcomes.

The Department of Mines and Petroleum’s (DMP’s) Bill is based on the national model WHS Act, but the supporting regulations will be customised to suit Western Australia.

DMP committed to a full and open consultation process during development of the proposed Work Health and Safety (Resources) legislation.

Consultation on the proposed content of the Bill has been completed and it is currently being drafted by Parliamentary Counsels Office. Consultation on the supporting regulations has commenced.

This workshop covered plant and structure provisions in the regulations, affecting the mining industry. The Facilities Workshop covered provisions affecting the Petroleum and Major Hazard industry sectors.

Objectives

The key principles for the safety legislation reform are:

- modernising, consolidating and simplifying legislation
- removing prescription and duplication
- providing consistency across different industry sectors
- using codes of practice and guidelines for further guidance and detail.

Workshop consultation process

Member groups on the Ministerial Advisory Panel for Safety Legislation Reform (MAP) were asked to invite representatives from industry, unions and the regulator to participate in a workshop held on 15 April 2016, with 24 people attending.

Briefing papers were provided prior to the workshop. To assist in finalising policy positions, attendees were requested to provide reasons and evidence to support alternatives to the proposed concepts. After the workshop, meeting notes were prepared and distributed to attendees for comment. Written submissions were also encouraged, but none were received.

Stakeholders will have further opportunities to comment on the proposed legislative changes through MAP; other workshops and stakeholder meetings; additional written submissions to DMP; and the Regulatory Impact Statement (RIS) public consultation process on the regulations in mid-2016.

Final drafting of the regulations will be controlled by the Parliamentary Counsel’s Office.

Current legislation

The current mine safety provisions are contained within the *Mines Safety and Inspection Act 1994* (MSIA) and Mines Safety and Inspection Regulations 1995 (MSIR).

The *Mines Safety and Inspection Act 1994* (MSIA) has provisions covering 'general duty of care' in section 9 of the Act that establishes the base for enabling legislation. However, the Mines Safety and Inspection Regulations 1995 (MSIR) is, in general, prescriptive and provides details of precautions for specific hazards or situations. The prescriptive provisions are restrictive in nature and may not be able to deal with all possible scenarios. These provisions require updating as technology advances.

Proposed Work Health and Safety (Resources) Regulations

Section 19 of the WHS (Resources) Act, which replaces section 9 in the Mine Safety and Inspection Act (1994) (MSIA), covers duty of care for Resources Operations. Part 3.1 is the backbone to the proposed regulations.

It is worth noting terms that are being introduced through the proposed WHS (R) legislation:

- The *Mine Operator* (MO) was previously known as the *Principal Employer*.
- The *Person Conducting a Business or Undertaking* (PCBU) replaces *employer* and *worker* replaces *employee*. This should help to simplify the 'duty of care' relationship established between these two parties.
- The *Site Senior Executive* (SSE) replaces the *Registered Manager* (RM). To strengthen this key position the SSE will be required to have formal risk management training and knowledge of WA legislation.

The circulated discussion paper on the proposed regulations is attached as Appendix 1.

Mine Safety Management System

Mining operations will be required to operate under a Mine Safety Management System (MSMS), which is a framework to demonstrate how the mining operation will control risk. The MSMS defines the mining operations plans, procedures, systems and other control measures.

Forming part of the MSMS are site-applicable Principal Hazard Management Plans (PHMPs). PHMPs are designed to cover principal hazards present at the site and, with regards to plant, should cover winding systems and collision of mobile plant.

Before any operation can begin, a MSMS covering all aspects of the operation must be prepared.

Within a year of commencement, a review of the MSMS in consultation with workers must take place.

Contractors are required to follow the mine operator's MSMS or develop their own Safety Management System (SMS), which must be approved by the operator.

An inspector can issue an improvement notice if an operation fails to follow their MSMS. The mining operation can also be instructed to review their MSMS, if it is deemed to be inadequate.

A workshop covering the Mine Safety Management System (MSMS) was held on 3 December 2015.

Recommendation:

That the:

- Ministerial Advisory Panel notes the feedback from the workshop; and
- DMP consider this information when developing the proposed Work Health and Safety (Resources) legislation for Western Australia.

Current regulations	Proposed regulation	Stakeholder Comments	DMP Response
1. Key duty holders	<p>Key duty holders include:</p> <ul style="list-style-type: none"> Resources facility operator Designer, manufacturer, constructor, importer, supplier, verifier, validator Person conducting business or undertaking Person with management or control of plant at a workplace <ul style="list-style-type: none"> Section 21: person with management or control of fixtures, fittings or plant at a workplace means a person conducting a business or undertaking to the extent that the business or undertaking involves the management or control of fixtures, fittings or plant, in whole or in part, at a workplace. <p>Duties for mine operator, designer, verifier, validators, manufacturers, constructors, importers, suppliers and PCBUs are set out in the pre-workshop papers circulated to participants.</p> <p>Some designs will be required to be verified or validated by third party companies.</p> <p>The Department's review of cranes in 2014/15 indicated over 90% non-compliance of overhead and gantry crane designs.</p>	No issues raised	N/A
2. Plant and structure	<p>Clear definitions of plant, structure and geotechnical structure will be included in the WHS (R) Regulations. (see Appendix 1)</p>	No issues raised	N/A
3. Duties of mine operator (MO) (Appendix 1 – clause A) MSIR 6.17 – 6.31 No equivalent in model WHS Regs	<p>The Regulations won't list hazards and their controls. The mine operator is expected to undertake risk assessments and prepare the required PHMPs.</p> <p>Competency is defined in the legislation and includes qualifications, experience and knowledge of the position or job. Defining competency in the legislation for each specific situation is difficult. Supporting guidance material will be available.</p> <p>It is up to the mine operator to define the resource requirements of the operation.</p> <p>The mine operator needs to have procedures in place to check the competencies of designers, etc.</p> <p>DMP requested stakeholder comments and suggestions for clause A(2)(n) – <i>control measures for the following risks to health and safety associated with the mechanical aspects of plant and structures at the mine</i>: Should these be included as a list in the Regulations or in a Guideline?</p>	<p>Specifying mechanical engineering in Reg. A(2)(h) is too prescriptive – drop 'mechanical'</p> <p>Post-workshop comments:</p> <p>We note that this regulation is an addition to the model Work Health and Safety regulations.</p> <p>Subregulation (2) has an extensive list of 'considerations' in relation to risk mitigation which may be more suited to a code of practice or guideline versus appearance within delegated legislation. Some terms are considered imprecise (i.e. intent, strategies etc.).</p> <p>It is also noted that some 'considerations' include incident/failure occurrences (items (n)). (Doug Hawkes, Structural Integrity Engineering Pty Ltd)</p>	<p>Agreed. Will be removed.</p> <p>Response to post-workshop comments</p> <p>The regulation is based on NMSF drafting instructions and supports general duty of care of MO/PCBU.</p> <p>The terms used are 'indicative' only. The regulation will be drafted by PCO.</p>

Current regulations	Proposed regulation	Stakeholder Comments	DMP Response
4. Duties of mine operator commissioning work (Appendix 1 – clause B) MSIR no equivalent provision No equivalent in model WHS regs.	<p>Clause B(2) requires that – <i>the resources facility operator must ensure that the plant or structure design meets the safety and health requirements before the plant is manufactured, installed, or commissioned and structure is constructed or commissioned at the mine.</i></p> <p>The onus is on the MO to ensure compliance to this clause.</p> <p>The mine operator, where a plant or structure is installed, constructed or commissioned, must ensure that the design details including changes, if any, are safe for workers and other persons, and are communicated and accepted, where relevant, by the designer, verifier, manufacturer and constructor.</p> <p>As this legislation focuses on work health and safety, performance of plant is not a consideration.</p>	No issues raised	N/A
5. Designer duties (Appendix 1 – clause C & D) MSIR 6.5 Model WHS regs 187 & 188.	<p>The designer must supply the manufacturer or constructor with all design information applicable to operation and maintenance, associated hazards and risks, testing or inspections, systems of work and emergency procedures.</p>	No issues raised	N/A
6. Designer and manufacturer duties (Appendix 1 – clause E) MSIR 6.4, 6.6 Model WHS regs 189-192 (summarised and with additions).	<p>A designer and manufacturer of a plant eliminate or minimise risk by using the listed control measures.</p>	No issues raised	N/A
7. Manufacturer and constructor duties (Appendix 1 – clause F) MSIR 6.6, 6.7, 6.8 Model WHS reg 193.	<p>Close dialogue should be maintained between the mine operator and the manufacturer or constructor. This is especially necessary when the manufacturer or constructor is not in Australia.</p>	What about off-the-shelf equipment?	Refer to regulation A(2)(a) – the mine operator has the responsibility to ensure it meets the WHS requirements. Documented argument for selection of off-the-shelf equipment should support the decision.
8. Information to be obtained and provided (Appendix 1 – clause G, H and J) MSIR 6.11, 6.13 Model WHS regs 195, 196, 198.	<p>Manufacturer and constructor must take all reasonable steps to obtain information from the designer. This is especially when the designer may not reside in Australia.</p> <p>For example, recent imports of construction cladding that contain asbestos.</p>	No issues raised	N/A

Current regulations	Proposed regulation	Stakeholder Comments	DMP Response
9. Duty of importer (handout – clause I) MSIR 6.9, 6.10, 6.11 Model WHS reg 197	Importer must inspect and test the plant if required by manufacturer, eliminate or minimise risk if any hazard is identified, and consult designer and manufacturer if alterations are made to the plant.	No issues raised	N/A
10. Second-hand plant supply (Appendix 1 – clause K) MSIR 6.14 Model WHS reg 199	Any faults must be identified by the supplier, and plant should not be used until the faults are rectified. Rental and hire equipment will be covered by this regulation, but plant to be used for scrap will not. By “given written notice”, the supplier has communicated faults that exist with the plant. The user then takes responsibility when using the plant.	1. Include the term ‘rental’ in the regulation. 2. What if a site uses a “build, own and operate plant”?	1. Agreed 2. The mine operator has responsibilities. The contractor, who is a PCBU, also has responsibilities. As mentioned above, the contractor may comply with the mine operator’s MSMS or will have their own SMS which has been accepted by the mine operator. These systems set out risk management procedures to be followed.
11. Duties of PCBUs that install plant and structures (Appendix 1– clause L and M) MSIR 6.15, 6.16 Model WHS regs 201 - 202	Information received from the designer, manufacturer, importer or supplier must be used in the installation, construction or commissioning of plant and structures.	No issues raised	N/A
12. Duties of person managing or controlling plant (Appendix 1– clause N, O, P, Q, R) MSIR 6.17 – 6.25 Model WHS regs 203-207	Risks must be managed in accordance with Part 3.1. Plant must only be used for its designed purpose.	No issues raised	N/A
13. Duties of PCBUs – autonomous plant NEW – no equivalent in MSIR or Model WHS regs	This is a new clause covering services supplied by a PCBU to operate plant from a site not located at a mine. They have duties to ensure workers are not harmed through the services that they are providing. Remote operation of plant from a site on the mine is covered by other provisions.	No issues raised	N/A

Current regulations	Proposed regulation	Stakeholder Comments	DMP Response
14. Guarding (Appendix 1– clause S) MSIR 6.2 Model WHS reg 208	<p>This clause covers guarding if it is used as a control measure in relation to plant at a workplace. The general principles include:</p> <p>The PCBU must ensure that the guarding:</p> <ul style="list-style-type: none"> • is of solid construction and securely mounted; and • makes bypassing or disabling as difficult as is reasonably practicable; and • does not create a risk in itself; and • is properly maintained. 	<p>This clause appears to be very prescriptive. Should details be covered in guidance material?</p>	<p>No. The important emphasis of this clause is not that guarding is obligatory, but rather covers guarding details “if” guarding is implemented as a hazard control measure.</p>
15. Precautions against specified hazards (Appendix 1– clause T) MSIR 6.27, 6.28, 6.30, 6.31 All aspects are not covered in MSIR Model WHS regs 209-213	<p>These particular hazards are listed as they commonly occur on mine sites and must be controlled so far as is reasonably practicable. Risks must be controlled in accordance with Part 3.1.</p>	<p>No issues raised</p>	<p>N/A</p>
16. Powered mobile plant – control of risks (Appendix 1– clause U) MSIR no equivalent provision Many regulations in Part 4, 6, 10 of MSIR cover some aspects of this provision Model WHS regs 214-217	<p>This clause describes the hazards that need to be considered when dealing with mobile plant. The hazards listed need to be covered in a PHMP.</p>	<p>No issues raised</p>	<p>N/A</p>
17. Precautions when using certain plant (Appendix 1– clause V) MSIR no equivalent provision Many regulations in Part 4, 6, 10 of MSIR cover some aspects of this provision Model WHS regs 218-219, 221-226 (with mining-specific additions)	<p>This clause covers certain plant that is commonly used in mines.</p> <p>Each PCBU must manage risks to health and safety in accordance with Part 3.1.</p> <p>Under the proposed WHS (R) legislation, if either dredges or winders are to be used on a mining operation then DMP must be notified. This plant will no longer be approved by DMP and therefore the PCBU is not required to await Regulator approval before utilising the plant. DMP may seek some information and/or clarification on the plant as required.</p>	<p>Post-workshop comments</p> <p>It is noted that items j) to q) are additional items of plant to that described in the model regulations. However, the model regulations also have specific controls for the specified items that appear.</p> <p>These specific controls have not been provided for the proposed added items and it is queried as to whether additional specific controls would also be required in the proposed new regulations. <i>(Doug Hawkes, Structural Integrity Engineering Pty Ltd)</i></p>	<p>Response to post-workshop comments</p> <p>The additions are generally mining specific. Details as prescribed in the model WHS regulations have been excluded and will not be added. These, if required, will be covered in guidelines.</p>

Current regulations	Proposed regulation	Stakeholder Comments	DMP Response
18. Registration of plant design (Appendix 1– Part 5.2) OSH regs Schedule 4.1 MSIR Part 6 Div. 3 Model WHS regs Part 5.3	<p>Under the proposed WHS (R) legislation, before specified plant can be used at a mining operation, the design must be registered with WorkSafe in accordance with Schedule 4.1 of OSH Regs 1996.</p> <p>Individual specified items of plant to be used at a mine will no longer be registered by the Regulator or WorkSafe.</p> <p>If changes are made to plant but the actual design is unaltered then reregistration of the plant is not required – refer to OSHR in this regard.</p> <p>Specified plant must not be supplied to a mine unless the design of the plant is registered and it is manufactured in accordance with the current registered design.</p> <p>Commissioning of plant</p> <p>A PCBU must not commission an item of plant for use unless that design of plant is registered.</p> <p>This does not prevent the PCBU performing any necessary adjustments, tests or inspections as part of the commissioning process before the plant is commissioned.</p>	Is the terminology of classified plant being retained?	No. “Classified” is being dropped. Schedule 4.1 of OSH Regs 1996 will be followed.
19. Records of plant (Appendix 1– Part 5.2 G) OSH regs Schedule 4.1	<p>Records of plant, including records of tests, inspections, maintenance, commissioning, decommissioning, dismantling, and alterations, must be maintained.</p> <p>These records must be made available for inspection and passed on to the PCBU to whom control is relinquished.</p>	No issues raised	N/A
20. Winding systems (see Appendix 1) MSIR Parts 11 & 12 Model WHS regs. Part 10	<p>Winders are a listed Principal Hazard and, therefore, management of risks associated with winding systems requires development and implementation of a PHMP. Notice needs to be given to DMP, but approval is not required.</p> <p>The outcomes for the safe performance of a winding system are described in the WHS (R) Regulations, with individual prescriptive requirements being removed. Details will be included in guidance material.</p> <p>There will be separate regulations for ropes and operation of shaft conveyances</p>	No issues raised	N/A
21. High risk work MSIR 6.37 Model WHS regs. Part 4.5	<p>High risk work must be carried out by High Risk Work Licence holders. The licences will be issued by WorkSafe in accordance with OSH Regulations 1996 and not by DMP.</p> <p>Winder engine drivers will no longer be certified by the regulator. Their experience is prescribed under statutory position provisions. For all other plant, the SSE must ensure workers are competent to operate the particular plant.</p>	No issues raised	N/A

Current regulations	Proposed regulation	Stakeholder Comments	DMP Response
22. Demolition work MSIR 4.18 no equivalent provision Model WHS regs. Part 4.6	No approval for demolition work will be required from DMP, but the PCBU must give notice for such work. Demolition work must be performed by an approved person for that category of work under the OSH Regulations 1996.	No issues raised	N/A
23. Construction work MSIR Part 4 Div. 2 Model WHS regs. Part 6	The definition of construction work excludes excavation work which forms part of the definition of mining where sufficient risk management controls exist to protect the safety and health of workers.	1. To reduce ambiguity, include “mining” with the term ‘excavation’. 2. How will transferring a construction site to WorkSafe be handled?	1. Agreed 2. Provisions, similar to current sections of the MSIA and OSHA, are proposed to transfer operations from one jurisdiction to another. However, the current policy is that construction sites on a mining operation will remain under DMP.
24. Other		1. It would be useful to have a list of the Regulations that are being omitted. Post-workshop comments 2. It is observed that many of the regulations are the same, or similar to the Model WHS Regulations. Achievement of commonality across jurisdictions is considered an appropriate measure. (<i>Doug Hawkes, Structural Integrity Engineering Pty Ltd</i>)	1. Agreed. Corresponding regulations are given in column 1 of this table. Response to post-workshop comments 2. Where considered necessary, model WHS regs. have been adopted. Prescriptive regulations have been omitted and these details will be included in guidelines.



Policy discussion paper for the Plant and structure regulations

Note: These provisions apply to plant and structures that are either being used, planned to be used or likely to be used at a resources facility.

Relevant definitions:

construct includes assemble, erect, build, reconstruct, reassemble, rebuild, and re-erect.

Constructor means a person conducting business or undertaking who assembles, erects, builds, reconstructs, reassembles, re-erects, or rebuilds a structure

design, in relation to plant, a substance or a structure includes:

- (a) design of part of the plant, substance or structure; and
- (b) redesign or modify a design.

import means to bring into the State from outside Australia.

plant includes:

- (a) any machinery, equipment, appliance, container, implement and tool; and
- (b) any component of any of those things; and
- (c) anything fitted or connected to any of those things.

structure means (defined in the Act) anything that is constructed, whether fixed, moveable or floating, temporary or permanent, and includes:

- (a) buildings, masts, towers, framework, pipelines, transport infrastructure, geotechnical structure and
- (b) any component of a structure; and
- (c) part of a structure.

Geotechnical structure means any structure built in or using ground and includes all forms of underground and surface excavations, embankments, mine waste dumps, ore/waste stockpiles, foundations and trenches.

Ground here means either in-situ or placed rocks, soils, mine waste, back-filling materials and tailings.

substance means any natural or artificial substance, whether in the form of a solid, liquid, gas or vapour.

A. Managing risks due to plant, structures and mechanical energy (added)

- (1) The resources facility operator must in accordance with Part 3.1 manage risks due to plant, structures and mechanical energy at the mine.
- (2) The resources facility operator must, without limiting the generality of sub-regulation (1), consider, where applicable, the following aspects in minimising, so far as is reasonably practicable, the risks due to plant, structures and mechanical energy at the mine:
 - (a) design, selection and acquisition of any plant or structure to ensure that it is fit for its intended purpose and is capable of being installed, commissioned, operated and maintained in a safe manner,
 - (b) manufacture, fabrication, assembly, installation, commissioning, operation, maintenance, repair, refurbishment, alteration, decommissioning and dismantling of plant or structures,
 - (c) the design life of plant and structures at the mine and the changing requirements at different stages of their life cycle such that safety, integrity and reliability is maintained throughout the life cycle,
 - (d) the design intent and the physical, technological limitations and constraints of plant and structures,
 - (e) the capture, preservation and management of necessary documents and records relating to plant and structures, including design specifications, as-built drawings, designer's calculations, compliance statements, certification records, fabrication records, test records, commissioning records, repair records, inspection reports, records of modifications, maintenance history records,
 - (f) reliability of safeguards used at the mine to protect persons from the hazards posed by the plant or structure during each phase of its life cycle,
 - (g) prevention, detection and suppression of fires on or caused by fixed and mobile plant,
 - (h) engineering practices to be employed at the mine, particularly with regard to engineering standards, procedures, special tools and equipment,
 - (i) safe work systems for persons dealing with plant or structures including the effective isolation and control of all energy sources from plant or structures,
 - (j) maintenance strategies, including periodic inspection and testing of plant and structures,
 - (k) identification, assessment, monitoring, management and rectification of defects that affect safe operation of plant and structures,
 - (l) the provision of operator protective devices on mobile plant including protective canopies (i.e. ROPS and FOPS) when controlled by an on-board operator
 - (m) competency of persons who design, verify, select, fabricate, manufacture, assemble, install, commission, service, maintain, test, inspect, overhaul, modify, operate, dismantle or dispose of plant and structures.
 - (n) control measures for the following risks to health and safety associated with the mechanical aspects of plant and structures at the mine:
 - (i) injury to persons caused by the operation of plant or by working on or near plant or structures,

- (ii) unintended release of mechanical energy including noise, vibration, kinetic energy, potential energy due to gravity and stored pressure,
- (iii) unintended or uncontrolled operation or movement of fixed or mobile plant, particularly plant that is controlled remotely or autonomously,
- (iv) loss of control of mobile plant, in particular brake and steering failures,
- (v) derailment of rail mounted plant (e.g. stackers, reclaimers, bridge cranes),
- (vi) wear, damage, defects or failure of plant or structures to the extent that there may be an increased risk of personnel being exposed to a hazard,
- (ix) risks associated with pressurised fluids,
- (x) risks due to hot or cold parts of a plant

Following Regulations are omitted and replaced by regulation above:

General duties of employers for plant

- 6.17 Employer to identify hazards associated with plant and to assess risks
- 6.18 Employer to reduce risks identified
- 6.19 Person to provide design information to design contractor
- 6.20 Employer's duties in relation to installation, maintenance, etc. of plant
- 6.21 Employer to prevent unsafe use of plant
- 6.22 Employer's duties when plant is damaged or repaired
- 6.23 Employer's duties when design of plant is altered
- 6.24 Employer's duties when dismantling, storing, or disposing of plant
- 6.25 Employer's duties to keep records

Employer's duties with specific hazard related to plant

- 6.26 Plant under pressure
- 6.27 Plant with moving parts
- 6.28 Plant with hot or cold parts
- 6.29 Electrical plant and plant exposed to electrical hazards
- 6.30 Industrial robots
- 6.31 Lasers

B. Duty of resources facility operator who commissions work for plant or structure (added)

- (1) A mine operator who commissions design work for plant or structure for the mine must ensure that:
 - (i) detailed performance requirements and duties of the proposed plant or structure, and
 - (ii) site specific factors that have bearing on design and performance of the proposed plant or structure,are communicated to the designer of plant or structure.
- (2) The resources facility operator must ensure that the plant or structure design meets the safety and health requirements before the plant is manufactured, installed, or commissioned and structure is constructed or commissioned at the mine.
- (3) The resources facility operator of a mine where a plant or structure is installed, constructed or commissioned must ensure that the design details including changes, if any, are safe for workers and other persons, and are communicated and accepted, where relevant, by designer, verifier, manufacturer and constructor.

C. Provision of information to manufacturer or constructor (model WHS Reg 187)

A designer of plant or structure must ensure, when the design of the plant or structure is made available to the manufacturer of the plant or constructor of a structure, that the manufacturer or constructor is provided with:

- (a) information to enable the plant or structure to be manufactured or constructed in accordance with the design specifications; and
- (b) if applicable, information about:
 - (i) the installation, commissioning, decommissioning, testing, maintain, use, handling, storage and, if the plant or structure is capable of being dismantled, dismantling of the plant or structure; and
 - (ii) the hazards and risks associated with the use of the plant or structure that the designer has identified; and
 - (iii) testing or inspections to be carried out on the plant or structure; and
 - (iv) the systems of work and competency of operators that are necessary for the safe use of the plant; and
 - (v) the emergency procedures (if any) that are required to be implemented if there is a malfunction of the plant or structure.

D. Hazard identified in design during manufacture or construction (model WHS Reg 188)

If a manufacturer of plant or constructor of structure informs the designer of the plant or structure that there is a hazard in the design of plant or structure for which the designer has not provided a control measure, the designer must:

- (a) revise the information originally supplied to the manufacturer or constructor to ensure that:
 - (i) the risk is eliminated so far as is reasonably practicable; or
 - (ii) if it is not reasonably practicable to eliminate the risk, the risk is minimised so far as is reasonably practicable; or

- (b) notify the manufacturer or constructor, in writing, that the designer is of the opinion that it is not necessary to revise the information originally supplied to the manufacturer or constructor to ensure compliance with this Part.

E. Additional duties of designer and manufacturer (model WHS Reg 189, 190, 191, 192 summarised and with additions)

Without limiting the generality of subsections 22(2) and 23(2), a designer and a manufacturer of a plant must, so far as is reasonably practicable, eliminate or minimise risk by using, where applicable, following control measures:

- (a) Providing effective guards against mechanical, electrical and other hazards,
- (b) Suitably locating, identifying, and designing operational controls;
- (c) Providing sufficient 'stop and lock-off' type emergency stop controls;
- (d) Providing safe means of access and egress for operation, inspection, and maintenance; and
- (e) Providing suitably located warning devices.

F. Control of risk by manufacturer or constructor (model WHS Reg 193)

- (1) A manufacturer of plant or constructor of structure must ensure the following:
 - (a) that the plant is manufactured or structure is constructed and inspected having regard to the information provided to the manufacturer or constructor by the designer of the plant or structure;
 - (b) if the information provided to the manufacturer or constructor by the designer of the plant or structure requires the plant or structure to be tested—that the plant or structure is tested in accordance with that information;
 - (c) if, during the manufacturing or construction process, any hazard is identified in the design of the plant or structure for which the designer has not provided a control measure:
 - (i) that the hazard is not incorporated into the manufacture of the plant or construction of the structure; and
 - (ii) that the designer of the plant or structure is given written notice of the hazard as soon as practicable; and
 - (iii) that all reasonable steps are taken to consult with the designer of the plant or structure in relation to the alteration of the design to rectify the hazard.
- (2) A manufacturer of plant or constructor of a structure must ensure that, if it is not possible to inform the designer about the hazard in accordance with subregulation (1):
 - (a) the risk is eliminated, so far as is reasonably practicable; or
 - (b) if it is not reasonably practicable to eliminate the risk, the risk is minimised so far as is reasonably practicable.
- (3) A manufacturer or constructor to whom subregulation (1)(c) applies must not manufacture the plant or structure until:
 - (a) the designer gives the manufacturer or constructor the revised information or written instruction under regulation D; or
 - (b) the manufacturer or constructor eliminates or minimises the risk under subregulation (2).

- (4) If the designer notifies a manufacturer of plant or constructor of structure under regulation D, the manufacturer or constructor may proceed in accordance with the designer's original information.
- (model WHS Reg 194 Guarding omitted)

G. Information must be obtained and provided (model WHS Reg 195)

A manufacturer of plant or constructor of a structure must:

- (a) take all reasonable steps to obtain the information required to be provided to the manufacturer or constructor by the designer of the plant or structure under section 22(4)(a) and (c) of the Act and regulations C and D; and
- (b) ensure that a person to whom the manufacturer or constructor supplies the plant or structure is, at the time of supply, provided with the information provided to the manufacturer or constructor by the designer under section 22(4)(a) and (c) of the Act and regulation C; and
- (c) if the manufacturer acts in accordance with regulation F(1)(c), ensure that a person to whom the manufacturer supplies the plant is provided with the information, applicable to the plant, that is required to be provided by the designer under sections 22(4)(a) and (c) of the Act and regulation D.

H. Information to be obtained and provided by importer (model WHS Reg 196)

An importer of plant or structure must:

- (a) take all reasonable steps to obtain:
 - (i) the information that would be required to be provided by a manufacturer under section 23(4)(a) and (c) of the Act; and
 - (ii) the information that would be required to be provided by the designer of the plant or structure to the manufacturer or constructor under regulations C and D; and
- (b) give that information to any person to whom the importer supplies the plant or structure.

I. Control of risk (model WHS Reg 197)

An importer of plant must:

- (a) ensure that the plant is inspected having regard to the information provided by the manufacturer; and
- (b) if the information provided by the manufacturer requires the plant to be tested—ensure that the plant is tested in accordance with that information; and
- (c) if any hazards are identified:
 - (i) ensure that the plant is not supplied until the risks have been eliminated so far as is reasonably practicable; and
 - (ii) if it is not reasonably practicable to eliminate the risks, inform the person to whom the plant is supplied about the risks; and
- (d) take all reasonable steps to ensure that the designer and manufacturer of the plant are consulted in relation to any alteration made to the plant to control the risk.

J. Information to be obtained and provided by supplier (model WHS Reg 198)

A supplier of plant must:

- (a) take all reasonable steps to obtain the information required to be provided by the manufacturer under section 23(4)(a) and (c) of the Act and these Regulations; and
- (b) ensure that, when the plant is supplied, the person to whom the plant is supplied is given the information obtained by the supplier under paragraph (a).

K. Supply of second-hand plant—duties of supplier (model WHS Reg 199)

- (1) A supplier of second-hand plant must ensure, so far as is reasonably practicable, that any faults in the plant are identified.
- (2) A supplier of second-hand plant must ensure that the person to whom the plant is supplied is, before the plant is supplied, **given written notice**:
 - (a) of the condition of the plant; and
 - (b) of any faults identified under subregulation (1); and
 - (c) if appropriate, that the plant should not be used until the faults are rectified.
- (3) This regulation does not apply to plant to be used for scrap.

(model WHS Reg 200 Second-hand plant to be used for scrap or spare parts omitted)

L. Duties of persons conducting businesses or undertakings that install, construct or commission plant (model WHS Reg 201)

- (1) This regulation applies to a person who conducts a business or undertaking that installs, constructs or commissions plant **at a resources facility**. (Omit: that is to be used, or could reasonably be expected to be used, as, or at, a workplace.)
- (2) The person must ensure that the plant is installed, constructed or commissioned having regard to:
 - (a) the information provided by the designer, manufacturer, importer or supplier of the plant under the Act and these Regulations; or
 - (b) the instructions provided by a competent person to the extent that those instructions relate to health and safety.

M. Duties of persons conducting businesses or undertakings that install, construct or commission structures (model WHS Reg 202)

- (1) This regulation applies to a person who conducts a business or undertaking that installs, constructs or commissions a structure **at a resources facility** (Omit: that is to be used, or could reasonably be expected to be used, as or at, a workplace.)
- (2) The person must ensure that the structure is constructed, installed or commissioned having regard to:
 - (a) the information provided by the designer, manufacturer, importer or supplier of the structure under the Act and these Regulations; or
 - (b) the instructions provided by a competent person to the extent that those instructions relate to health and safety.

N. Management of risks to health and safety (model WHS Reg 203)

A person with management or control of plant or structure at a workplace must manage risks to health and safety associated with plant or structure, in accordance with Part 3.1.

O. Control of risks arising from installation or commissioning (model WHS Reg 204)

- (1) A person with management or control of plant at a workplace must not commission the plant unless the person has established that the plant is, so far as is reasonably practicable, without risks to the health and safety of any person.
- (2) A person with management or control of plant or structure at a workplace must not decommission or dismantle the plant or structure unless the decommissioning or dismantling can be carried out, so far as is reasonably practicable, without risks to the health and safety of any person.
- (3) A person with management or control of plant or structure at a workplace must ensure that a person who installs, assembles, constructs, commissions or decommissions or dismantles the plant or structure is a competent person.
- (4) A person with management or control of plant or structure at a workplace must ensure that a person who installs, assembles, constructs, commissions or decommissions or dismantles the plant or structure is provided with the available information for eliminating or minimising risks to health or safety.
- (5) A person with management or control of plant or structure at a workplace must ensure that the processes for the installation, construction, commissioning, decommissioning and dismantling of plant or structure include inspections that ensure, so far as is reasonably practicable, that risks associated with these activities are monitored.

P. Preventing unauthorised alterations to or interference with plant or structure (model WHS Reg 205)

The person with management or control of plant or structure at a workplace must, so far as is reasonably practicable, prevent alterations to or interference with the plant or structure that are not authorised by the person.

Q. Proper use of plant, structure and controls (model WHS Reg 206)

- (1) The person with management or control of plant or structure at a workplace must take all reasonable steps to ensure that plant or structure is used only for the purpose for which it was designed, unless the person has determined that the proposed use does not increase the risk to health or safety.
- (2) In determining whether or not a proposed use of plant or structure increases the risk to health or safety, the person with management or control of the plant or structure must ensure that the risk associated with the proposed use is assessed by a competent person.
- (3) The person with management or control of plant or structure at a workplace must take all reasonable steps to ensure that all health and safety features and warning devices (including guarding, operational controls, emergency stops and warning devices) are used in accordance with the instructions and information provided by that person under regulation [\(give reference\)](#).

R. Plant, structure not in use (model WHS Reg 207)

The person with management or control of plant or structure at a workplace must ensure, so far as is reasonably practicable, that plant or structure that is not in use is left in a state that does not create a risk to the health or safety of any person.

S. Guarding (modified model WHS Reg 208)

- (1) This regulation applies if guarding is used as a control measure in relation to plant at a workplace.
- (2) omitted
- (3) The person conducting business or undertaking must ensure that the guarding:
 - (a) is of solid construction and securely mounted so as to resist impact or shock; and
 - (b) makes bypassing or disabling of the guarding, whether deliberately or by accident, as difficult as is reasonably practicable; and
 - (c) does not create a risk in itself; and
 - (d) is properly maintained.
- (4) If the plant to be guarded contains moving parts that may break or cause workpieces to be ejected from the plant, the person with management or control of the plant must ensure, so far as is reasonably practicable, that the guarding will control any risk from those broken or ejected parts and workpieces.
- (5) Despite anything to the contrary in this regulation, the person with management or control of the plant must ensure:
 - (a) that the guarding is of a kind that can be removed to allow maintenance and cleaning of the plant at any time that the plant is not in normal operation; and
 - (b) if guarding is removed, that, so far as is reasonably practicable, the plant cannot be restarted unless the guarding is replaced.

T. Precautions against hazards from plant (model WHS Reg 209, 210, 211, 212, 213)

The person conducting business or undertaking at a workplace must in accordance with Part 3.1 ensure, so far as is reasonably practicable, controls are implemented against risk from the following:

- (a) Hot or cold parts of plant or pipes;
- (b) Operator's controls – their location, unintentional operation, ability to lock into off position, and signage;
- (c) Operation of plant, if necessary, while doing maintenance or cleaning;
- (d) Warnings on or near plant against specific hazards;
- (e) Provision for emergency stoppage;
- (f) Restarting of a plant after emergency stoppage or otherwise when plant can be started from multiple locations;
- (g) Maintenance and inspection of plant;
- (h) starting, stopping or unplanned movement of remotely controlled plant

U. Powered mobile plant—general control of risk (model WHS Reg 214, 215, 216, 217)

A person conducting business or undertaking at a workplace must in accordance with Part 3.1, manage risks to health and safety due to powered mobile plant associated with the following:

- (a) Loss of control
- (b) Access and egress
- (c) Fire
- (d) The plant overturning;
- (e) Things falling on the operator of the plant;
- (f) The operator being ejected from the plant;
- (g) The plant colliding with any person or thing;
- (h) Mechanical failure of pressurised elements of plant that may release fluids that pose a risk to health and safety.

Note 1: As per Mine Safety Management System it is a requirement for a mine operator to prepare and implement “Collision of mobile plant – Principal Hazard Management Plan”.

V. Precautions when using certain plant (model WHS Reg 218, 219, 221, 222, 223, 224, 225, 226; mining specific plant added (i) to (o))

A person conducting a business or undertaking must in accordance with Part 3.1 manage risks to health and safety associated with the following plant or equipment:

- (a) Industrial lift-trucks,
- (b) Plant that lifts or suspend loads or persons,
- (c) Plant used in connection with tree lopping,
- (d) Fixed and mobile cranes
- (e) Industrial robots, remotely or automatically energised plant,
- (f) Lasers,
- (g) Pressure equipment,
- (h) Scaffold,
- (i) Plant with presence-sensing safeguarding system,
- (j) Stackers,
- (k) Ship loaders.
- (l) Reclaimers
- (m) Dredges
- (n) Conveyors
- (o) Face machines
- (p) Drilling plant
- (q) Mobile work platforms

Part 5.2 Additional Duties Relating to Registered Plant Designs

Notes

- 1 The person with management or control of plant at a workplace is the person conducting a business or undertaking at a workplace to the extent that the business or undertaking involves the management or control of plant in whole or in part at the workplace. See the definition **of person with management or control of plant at a workplace** in regulation 5(1) and section 21 of the Act.
- 2 This Part applies in addition to Part 5.1.
- 3 In this Part, **plant** includes a structure for which design needs to be registered as required in Part 5.3.

A. Application of Part 5.2

This Part applies to plant the design of which is required to be registered under Part 5.3.

B. Duty of persons conducting businesses or undertakings that manufacture plant

A manufacturer must not supply plant to a mine specified in Schedule 4.1 of the Occupational Safety and Health Regulations 1996 unless the design of that plant is registered as required under Part 5.3.

C. Duty of persons conducting businesses or undertakings that import plant

An importer must not supply plant to a mine specified in Schedule 4.1 of the Occupational Safety and Health Regulations 1996 unless the design of that plant is registered as required under Part 5.3.

D. Duty of persons conducting businesses or undertakings that supply plant

A supplier must not supply plant to a mine specified in Schedule 4.1 of the Occupational Safety and Health Regulations 1996 unless the design of that plant is registered as required under Part 5.3.

E. Duty of persons conducting businesses or undertakings that commission plant

- (1) This regulation applies to a person who conducts a business or undertaking that commissions plant at a mine.
- (2) The person must not commission an item of plant that is specified in Schedule 4.1 of the Occupational Safety and Health Regulations 1996 for use in a workplace unless that design of plant is registered as required under Part 5.3.
- (3) Nothing in subregulation (2) prevents a person from performing any necessary adjustments, tests or inspections as part of the commissioning process before the plant is commissioned at a workplace.

F. Duties of a person with management or control of plant at a workplace

- (1) This regulation applies to a person with management or control of plant at a mine/workplace where plant is used.
- (2) The person must not use or allow use of an item of plant that is specified in Schedule 4.1 of the Occupational Safety and Health Regulations 1996 for use in a mine/workplace unless that item of plant is registered as required under Part 5.3.
- (3) The person must ensure that the plant is inspected and maintained by a competent person.

- (4) The person must ensure that any modifications to the plant are as required by Occupational Safety and Health Regulations 1996.

G. Records of plant

- (1) This regulation applies in relation to plant that (design only) is required to be registered as required under Part 5.3.
- (2) The person with management or control of the plant at a workplace must keep a record of all tests, inspections, maintenance, commissioning, decommissioning, dismantling and alterations of the plant for the period set out in subregulation (3).
- (3) The record must be kept for the period that the plant is used or until the person relinquishes control of the plant.
- (4) The person must keep the record available for inspection under the Act.
- (5) The person must make the record available to any person to whom the person relinquishes control of the plant.

Part 5.3 Registration of Plant Designs

A. Plant design to be registered

- (1) A person who manufactures, imports or supplies plant of a kind set out in Schedule 4.1 of the Occupational Safety and Health Regulations 1996 for erection, installation, commissioning or use at a workplace must ensure —
 - (a) that the design of the plant has been registered by the commissioner (as defined in the Occupational Safety and Health Regulations 1996) or by a corresponding regulator; and
 - (b) that the registration is current; and
 - (c) that the plant is or has been manufactured in accordance with the current registered design.
- (2) The person controlling business or undertaking who has control of the plant must ensure that the design registration number issued by the registration authority is readily accessible at the resources facility.

Winding System

Note 1: As per Mine Safety Management System it is a requirement for a mine operator to prepare and implement “Winding System Principal Hazard Management Plant”.

Note 2: MSIR have 89 detailed regulations on winding systems in Part 11. In addition to these there are additional provisions covering ‘winding systems’ used for shaft sinking in Part 12. It is proposed that the mine operator will develop and implement PHMP covering all these aspects.

Note 3: MSIR require a winding system to be approved. It is proposed that only notification of proposal to use a winding system will be required in the prescribed form.

Note 4: MSIR require approval to be obtained before a new shaft sinking is started. It is proposed that only notification of proposal to sink a shaft will be required in the prescribed form.

Note 5: These regulations were developed by tri-state group commissioned for the purpose and are adopted from NSW regulations.

Winding system (Define)

Winding System

- (1) The mine operator of an underground mine must ensure that every winding system used or that may be put into use at the mine includes the following:
 - (a) ropes and devices that can withstand all forces reasonably expected to be borne by the ropes and devices,
 - (b) control measures to prevent, so far as is reasonably practicable, any shaft conveyance from overwind, moving at an unsafe speed, excessive acceleration and deceleration and uncontrolled movement,
 - (c) at least 2 **independent and fail safe** braking (or equivalent) systems that ensure the winder remains under control in the event of a failure in any one of the systems,
 - (d) control measures that detect any of the following malfunctions that may be present:
 - (i) slack rope,
 - (ii) rope slip,
 - (iii) unsafe balance rope conditions,
 - (iv) unsafe coiling of rope,
 - (e) control measures that cause the winder to be brought to a safe state when a condition or malfunction referred to in paragraph (d) is detected,
 - (f) warning systems to alert persons at the mine to any emergency in a winding system,
 - (g) if it is reasonably practicable, remote monitoring of the functions of the system,
 - (h) an effective means of communication:
 - (i) between the surface and any shaft conveyance used for carrying persons, and
 - (ii) between the point of control of the winder and the entry to every shaft that is in use,
 - (i) a device that safely attaches ropes to conveyances,
 - (j) in the case of multi-rope winders—devices that load the ropes as uniformly as possible.

- (2) The mine operator must ensure that the condition and performance of the winding system, and its components, are tested and monitored at intervals to ensure the safe performance of the system.
- (3) The mine operator must ensure that energy lockout devices are fitted to all mechanical and electrical plant associated with any shaft at the mine, including any mechanical and electrical plant associated with the operation, maintenance or use of the shaft.

Ropes

The mine operator of an underground mine must ensure that:

- (a) each rope used for the purposes of a winding system or slope haulage is regularly inspected and tested to ensure that it is safe for that use, and
- (b) criteria are established to determine when a rope is no longer suitable for any such use.

Operation of shaft conveyances

- (1) In this clause:
shaft conveyance means a conveyance that is connected to a winding system.
- (2) The mine operator of an underground mine must ensure that material or plant being carried in a shaft conveyance:
 - (a) does not protrude from the shaft conveyance while it is moving so as to contact a wall of the shaft or anything in the shaft, and
 - (b) is so secured to the shaft conveyance that it cannot leave the shaft conveyance except by being deliberately removed.
- (3) The mine operator of an underground mine must ensure that persons being carried in a shaft conveyance are adequately protected from another shaft conveyance in the same shaft, from any material or plant being carried by the other shaft conveyance and from the wall of the shaft or anything in the shaft.
- (4) The mine operator of an underground mine must ensure that, if a shaft conveyance that combines a cage and skip is used, material is not carried in the skip while persons are being carried in the cage.
- (5) The mine operator of an underground mine must ensure, **so far as is reasonably practicable**, that control measures are implemented to prevent a shaft conveyance from falling down the shaft.
- (6) The mine operator of an underground mine must ensure, **so far as is reasonably practicable**, that control measures are implemented to prevent persons, rock, material and plant from falling down a shaft.



Part 3.1 Managing Risks to Health and Safety

NOTE: These mock-up regulations are the same as Part 3.1 of national model WHS Regulations, with the addition of regulation 36A. The examples and note included below are for consultation purposes only and will not be included in the regulations. The regulations drafted by Parliamentary Counsel's Office may differ.

32 Application of Part 3.1

This Part applies to a person conducting a business or undertaking who has a duty under these Regulations to manage risks to health and safety.

33 Specific requirements must be complied with

Any specific requirements under these Regulations for the management of risk must be complied with when implementing the requirements of this Part.

Examples:

- 1) A requirement not to exceed an exposure standard.
- 2) A duty to implement a specific control measure.
- 3) A duty to assess risk.

34 Duty to identify hazards

A duty holder, in managing risks to health and safety, must identify reasonably foreseeable hazards that could give rise to risks to health and safety.

35 Managing risks to health and safety

A duty holder, in managing risks to health and safety, must:

- a. eliminate risks to health and safety so far as is reasonably practicable; and
- b. if it is not reasonably practicable to eliminate risks to health and safety—minimise those risks so far as is reasonably practicable.

36 Hierarchy of control measures

- 1) This regulation applies if it is not reasonably practicable for a duty holder to eliminate risks to health and safety.
- 2) A duty holder, in minimising risks to health and safety, must implement risk control measures in accordance with this regulation.
- 3) The duty holder must minimise risks, so far as is reasonably practicable, by doing 1 or more of the following:
 - a. substituting (wholly or partly) the hazard giving rise to the risk with something that gives rise to a lesser risk;
 - b. isolating the hazard from any person exposed to it;
 - c. implementing engineering controls.
- 4) If a risk then remains, the duty holder must minimise the remaining risk, so far as is reasonably practicable, by implementing administrative controls.
- 5) If a risk then remains, the duty holder must minimise the remaining risk, so far as is reasonably practicable, by ensuring the provision and use of suitable personal protective equipment.

Note: A combination of the controls set out in this regulation may be used to minimise risks, so far as is reasonably practicable, if a single control is not sufficient for the purpose.

36A Risk assessment and controls

- 1) A person conducting a business or undertaking must ensure that a risk assessment is conducted by a person who is competent to conduct the particular risk assessment having regard to the nature of the hazard.
- 2) A person conducting a business or undertaking must ensure that appropriate method of risk assessment is selected having regard to the nature of the hazard.
- 3) A person conducting a business or undertaking must ensure that while assessing risk associated with a hazard consideration is given to:
 - a. site specific contributing factors, and
 - b. so far as is reasonably practicable, available knowledge with regard to that hazard.

37 Maintenance of control measures

A duty holder who implements a control measure to eliminate or minimise risks to health and safety must ensure that the control measure is, and is maintained so that it remains, effective, including by ensuring that the control measure is and remains:

- a. fit for purpose; and
- b. suitable for the nature and duration of the work; and
- c. installed, set up and used correctly.

38 Review of control measures

- 1) A duty holder must review and as necessary revise control measures implemented under these Regulations so as to maintain, so far as is reasonably practicable, a work environment that is without risks to health or safety.
- 2) Without limiting subregulation (1), the duty holder must review and as necessary revise a control measure in the following circumstances:
 - a. the control measure does not control the risk it was implemented to control so far as is reasonably practicable;
 - b. before a change at the workplace that is likely to give rise to a new or different risk to health or safety that the measure may not effectively control;
 - c. a new relevant hazard or risk is identified;
 - d. the results of consultation by the duty holder under the Act or these Regulations indicate that a review is necessary;
 - e. a health and safety representative requests a review under subregulation
- 3) Without limiting subregulation (2)(b), a change at the workplace includes:
 - a. a change to the workplace itself or any aspect of the work environment; or
 - b. a change to a system of work, a process or a procedure.
- 4) A health and safety representative for workers at a workplace may request a review of a control measure if the representative reasonably believes that:
 - a. a circumstance referred to in subregulation (2)(a), (b), (c) or (d) affects or may affect the health and safety of a member of the work group represented by the health and safety representative; and
 - b. the duty holder has not adequately reviewed the control measure in response to the circumstance.



File No: A1375/201301

MEETING MINUTES: Ministerial Advisory Panel on Safety Legislation Reform

Date:	Wednesday, 8 June 2016	Time:	8:45am to 10:00am
Venue:	Koorling-Dandjoo Conference Room, Level 2, 1 Adelaide Terrace, East Perth		

Present

Mr Ian Fletcher	Independent Chairperson
Mr Rick Armstrong	Principal Drilling Coordinator, Rio Tinto Iron Ore (Australian Drilling Industry Association - ADIA)
Ms Jennifer Low	People and Safety Consultant, Chamber of Commerce and Industry WA (CCI WA)
Mr Anthony Cribb	General Manager Corporate Services/Company Secretary, DBP (representing Australian Pipelines and Gas Association - APGA)
Mr Paul Slocombe	Head of Health and Safety, BHP Billiton Iron Ore (representing Chamber of Minerals and Energy WA –CMEWA) (<i>proxy for Richard Kern</i>)
Mr Mike Zoetbrood	Secretary, Australian Workers Union (AWU)
Mr Michael Tooma	Partner, Clyde and Co - Independent Expert (<i>teleconference</i>)
Mr Gary Wood	Secretary, Construction Forestry Mining and Energy Union (CFMEU) Mining and Energy Division WA
Mr Nick Zovko	Regulatory Policy Manager, Plastics and Chemicals Industries Association (PACIA) (<i>teleconference</i>)
Mr Andrew Chaplyn	State Mining Engineer and Director Mines Safety, Resources Safety Division, DMP
Mr Philip Hine	Director Licensing and Regulation, DMP
Mr David Eyre	A/Principal Policy Officer, DMP
Mr Peter Payne	A/Senior Policy Officer, DMP

Apologies

Mr Simon Bennison	Chief Executive Officer, Association of Mining and Exploration Companies (AMEC)
Mr Andrew Woodhams	Director – Environment, Safety & Productivity, Australian Petroleum Production and Exploration Association (APPEA)
Mr Glenn McLaren	State Organiser, OHS Advisor, Australian Manufacturing Workers' Union (AMWU)
Mr Richard Kern	Regional Manager Asia Pacific Newmont (representing Chamber of Minerals and Energy WA –CMEWA) (<i>Paul Slocombe was proxy</i>)
Mr Chris Oughton	Director, Kwinana Industries Council (KIC)
Mr Simon Ridge	Executive Director, Resources Safety Division, Department of Mines and Petroleum (DMP) (<i>Philip Hine was proxy</i>)
Mr Ross Stidolph	Director Dangerous Goods and Petroleum Safety, DMP

Agenda items

Item	Topic	Action
1.	Welcome and apologies	
	<p>The Chair welcomed everyone. There are some replacement members:</p> <ul style="list-style-type: none"> Anthony Cribb from DBP is now representing APGA, replacing Kevin Wolfe. Andrew Woodhams is now representing APPEA, replacing Miranda Taylor. Mike Zoetbrood recently took over from Stephen Price as AWU's WA Secretary. <p>The 25 November 2015 and 30 March 2016 were cancelled, as there were no decision items. Update papers were provided.</p>	
2.	Actions from the previous meeting (<i>Attachment 1</i>)	
	<p>DMP to invite an officer from WorkSafe to join MAP when discussions on the regulations commence. WorkSafe will be invited to attend after July 2016 workshops are completed.</p> <p>DMP to provide examples of the type of information the Department seeks to publish. MAP to provide feedback. Awaiting information from DMP's Transparency Working Group.</p>	

Item	Topic	Action
3.	Safety Legislation Reform Update (<i>Attachments 2 & 3</i>)	
	<p>WORK HEALTH AND SAFETY (RESOURCES) BILL</p> <p>Parliamentary Counsel's Office (PCO) started drafting the Bill in February 2016.</p> <p>Delays in the drafting process made the original 1 January 2017 implementation date impractical, and so DMP obtained the Minister's approval to postpone implementation to 1 July 2017. A revised timeline was provided as Attachment 3. DMP expects that the Bill should be ready for introduction into Parliament by August 2016, subject to PCO drafting and Parliamentary processes.</p> <p>The CCI representative questioned whether the Minister for Mines and Petroleum has sufficient time to get the Bill through Parliament within the proposed timeframe, and recommended that MAP should do whatever it can to help push this legislation through.</p> <p>DMP replied that Minister L'Estrange is aware that the Bill has strong stakeholder support and Cabinet supported DMP's Bill to proceed to drafting, independently of WorkSafe's WHS Bill for general industry. The Chair said that whilst the Panel noted significant delays to WorkSafe's WHS Bill, it now seems to be progressing. However, there are a number of competing Bills being introduced to Parliament before the State Election, and once the election is called, any legislation before Parliament will be held until after the election. The incoming Government then has to prioritise the Bills.</p> <p>With the Panel's approval, the Chair will write to Minister L'Estrange, expressing the Panel's strong support for the WHS (Resources) Bill and that MAP would appreciate the Premier taking this into account when prioritising the passage of Bills.</p> <p>An exposure draft of the Bill will be sent to MAP as soon as it is ready, but some requirements will be in regulations, which have not yet been drafted. The Panel requested a briefing by DMP's drafting team on the new legislation.</p> <p>The CFMEU representative asked whether the WHS (Resources) Bill will be consistent with corresponding legislation in New South Wales. DMP replied that the Bill is based on the model WHS Act, amended for Western Australia's resources industry, but DMP has liaised with other jurisdictions.</p> <p>WORK HEALTH AND SAFETY (RESOURCES) REGULATIONS</p> <p>Stakeholder Workshops</p> <p>The workshop reports were discussed at agenda item 5. Unions were unavailable to attend the workshops, so DMP provided the draft reports and included their comments. DMP and unions are meeting in June 2016, to discuss potential issues.</p> <p>Upcoming stakeholder consultation</p> <ul style="list-style-type: none"> • <i>Other mine safety regulations (consultation paper): late June 2016</i> An out-of-session paper will be sent to MAP, requesting comment on other mine safety provisions which require additional consultation. • <i>Transitional Arrangements Workshop: Early July 2016</i> This covers transitional provisions that phase in the new legislation. The Panel requested that this workshop be held as early as possible in July 2016. • <i>Regulatory Impact Statement (RIS) – Work Health and Safety (Resources) Regulations – 27 June to 8 August 2016:</i> DMP has met with the Regulatory Gatekeeping Unit (RGU) to agree on aspects of the RIS process. <p>Marsden Jacob Associates are working with DMP on the Consultation RIS document, which covers the key changes under the proposed regulations and the outcomes of consultation to date, including the stakeholder workshop reports. All information on the RIS will be uploaded to the Marsden Jacob website and DMP</p>	<p>Chair to write letter to Minister L'Estrange, expressing strong support for WHS (Resources) Bill and requesting Premier gives it high priority.</p> <p>DMP to send an exposure draft of WHS (Resources) Bill to MAP when ready, including a paper on what is in the Bill versus regulations.</p> <p>DMP to arrange a MAP briefing on the Bill, on or after 27 July 2016, and invite the drafting team.</p> <p>DMP to hold Transitional Provisions Workshop by mid-July 2016.</p>

Item	Topic	Action
	<p>will include a link from their website, as well as communicate information to stakeholders via email and Resources Safety alerts. Stakeholders may attend the RIS Stakeholder Forum and/or lodge written submissions. DMP has arranged for Marsden Jacob Associates to brief MAP on the RIS at its July meeting.</p> <ul style="list-style-type: none"> • RIS Stakeholder Forum – Early August 2016: The forum was scheduled for 28 July 2016, however in July there is the Transitional Arrangements Workshop and a MAP meeting. The Chair noted the tight RIS timetable, but asked DMP to postpone the RIS forum to the first week of August 2016. MAP would prefer to see the exposure draft of the Bill before discussing the regulations at the forum. <p>Next steps for the regulations:</p> <ul style="list-style-type: none"> • Sep/Oct 2016: After the RIS consultation, feedback is analysed and collated into a Decision RIS document that requires RGU approval. • Oct/Nov 2016: After RGU approval, DMP submits the Decision RIS to the Minister seeking permission for PCO to draft the regulations. Drafting may start once the Bill is introduced into Parliament. • Dec 2016 – May 2017: PCO drafts the regulations. • June 2017: Exposure Draft of regulations provided to MAP. • 1 July 2017: Implementation of Work Health and Safety (Resources) Act and associated Regulations. <p>WORK HEALTH AND SAFETY LEGISLATION FOR GENERAL INDUSTRY</p> <p>The Minister for Commerce is considering WorkSafe's modifications to the proposed WHS Bill for general industry. On 1 June 2016, WorkSafe released a discussion paper on amendments to the model WHS regulations, with a three-month comment period. WorkSafe and DMP continue to liaise on the WHS laws.</p> <p>NATIONAL OFFSHORE PETROLEUM SAFETY AND ENVIRONMENTAL MANAGEMENT AUTHORITY (NOPSEMA)</p> <p>On 23 May 2016, DMP briefed NOPSEMA CEO Stuart Smith on progress with the petroleum aspects of the WHS (Resources) legislation and recent policy changes resulting from stakeholder feedback. NOPSEMA and DMP will continue to liaise during development of their respective petroleum safety reforms.</p>	<p>DMP to reschedule the RIS Stakeholder Forum to a date during 1-5 Aug 2016.</p>
4.	<p>Stakeholder Workshop Reports (Attachments 4 – 10)</p> <p>The Department has held seven workshops on specific topics in the regulations and reports were provided to MAP members for noting. Each report covered the key changes, stakeholders' comments and DMP's responses. Some of the feedback received has already been considered and incorporated into drafting instructions for the legislation.</p> <p>MAP representatives may wish to discuss the reports with their own organisations and members before submitting comments through the RIS process for the regulations.</p> <p>The Chair noted that the workshops referred to Part 3.1: Managing Risks to Health and Safety in the WHS regulations. Importantly, DMP has added a clause 36A:</p> <p>36A Risk assessment and controls</p> <ol style="list-style-type: none"> 1) A person conducting a business or undertaking must ensure that a risk assessment is conducted by a person who is competent to conduct the particular risk assessment having regard to the nature of the hazard. 2) A person conducting a business or undertaking must ensure that appropriate method of risk assessment is selected having regard to the nature of the hazard. 	<p>DMP to send MAP a copy of Part 3.1 of the WHS Regulations</p>

Item	Topic	Action
	<p>3) A person conducting a business or undertaking must ensure that while assessing risk associated with a hazard consideration is given to:</p> <ul style="list-style-type: none"> a. site specific contributing factors, and b. so far as is reasonably practicable, available knowledge with regard to that hazard. <p>SAFETY CASE REPORT</p> <p>Under the DMP response columns, there were references to an “11 Jan 2016 DMP meeting.” This was an internal DMP management meeting to discuss feedback from the Safety Case Workshop and make policy decisions.</p> <p>Nomination of Operator (page 5)</p> <p>The CFMEU representative requested clarification on the 'person conducting a business or undertaking' (PCBU), 'operator' and 'Site Senior Executive' (SSE), regarding who bears responsibility in prosecutions, and how the process will work from week to week.</p> <p>The 'operator' is the company or entity that is operating the facility. The operator is also a PCBU, and there could be multiple PCBUs at a resources operation. The regulations impose an obligation on the operator to develop and maintain the Safety Case. In prosecutions, multiple PCBUs involved in a compliance breach could be prosecuted, not only the operator. The Panel noted that the second paragraph explains that <i>“the operator will be the PCBU with the day to day management and control of the facility.”</i> The Bill will detail all of the key obligations and duties, and this part of the regulations is referring to the entity with the obligation for the safety case. The company that lodges the safety case is the operator.</p> <p>MINE SAFETY MANAGEMENT SYSTEM REPORT</p> <p>The Chair noted that at the workshops, there was some confusion about the components of an SMS and how it operates. The diagram on page 3 of the Mine SMS report is a useful tool to explain this.</p> <p>The Panel discussed the requirement for operators to consult with workers when developing and maintaining the Mine SMS. This was mentioned on page 7 of the report – the Mine SMS must be <i>“Revised and maintained in consultation with relevant workers.”</i> DMP notes that many companies are already using good consultation processes, but there is a need for better guidance.</p> <p>STATUTORY POSITIONS AND COMPETENCIES REPORT</p> <p>Andrew Chaplyn is on the Australasian Mining Competency Advisory Committee (AMCAC). Whilst AMCAC supports the use of Boards of Examiners in assessing competency, DMP views Boards as being unnecessary and problematic. This was a contentious issue, but there are deficiencies in the current system, such as workers with fraudulent qualifications and experience.</p> <p>The Chair noted that DMP's proposed approach uses an examination administered by DMP, which would be a significant improvement in assessing competency. The requirement for a risk management qualification is another step forward in improving safety. DMP's proposal is still being discussed with stakeholders.</p>	
5.	Other business	
	<p>Communication of reforms, codes of practice and guidance</p> <p>DMP requested that MAP members advise the Department of any parts of the safety legislation reforms where further clarification or diagrams are required, as this would be useful in communications and guidance.</p> <p>The Chair suggested a graphic clarifying the regulatory framework – the Act, the Regulations, codes of practice and guidelines – what they contain, what they do and how they work together. For example, the Act is enabling legislation with the framework, high-level powers and duties; regulations contain more detailed obligations; and the evidentiary status of codes of practice and guidelines.</p>	<p>MAP to advise DMP of matters which require clarification or diagrams for communication material.</p> <p>DMP to prepare a diagram on the regulatory framework (Acts, Regulations, codes and guidelines).</p>

Item	Topic	Action
	<p>Michael Tooma added that codes of practice are not legally binding, but are admissible in Court in terms of minimum duty of care. If companies choose not to follow a code of practice, they need to have a better system and provide justification. The CME representative noted that justification may require excessive levels of detail. DMP does not require excessive detail in justification – this is about achieving safety outcomes.</p> <p>The Chair noted that the transition period could be up to five years, so there is no expectation that everything will change on the implementation date. DMP will not develop a whole new set of codes of practice and guidelines by the implementation date. Currently available codes of practice and guidelines will be relied on, except where preparation of new guidance is needed.</p> <p>Some companies are already using a risk-based approach, but many smaller operators require additional assistance in implementing this. DMP has a team working on identifying the guidance and tools that are needed to help smaller operators.</p> <p>Importantly, the new legislation is intended to improve safety, not diminish it.</p> <p>Advisory Committees</p> <p>The CCI representative asked whether the proposed advisory committees have been included in the new legislation. The Chair and DMP confirmed that the legislation includes an advisory committee for mine safety (replacing the current Mining Industry Advisory Committee – MIAC) and a new advisory committee covering petroleum and major hazard facilities safety, with a common chairperson to provide consistency.</p> <p>Explosives legislation reforms</p> <p>A national process for harmonisation of explosives legislation began three years ago. Each State is amending its own legislation to reduce red tape in four key areas:</p> <ul style="list-style-type: none"> • Differences in licensing systems (for shot firers, explosives drivers, and to a lesser degree, explosives manufacturing). • Greater alignment for security checking processes between States. • What is regulated for safety versus security (e.g. Ammonium Nitrate: some States treat it as an explosive, but others treat it as a security risk). • Adopt a simpler authorisation process for explosives, for mutual recognition of authorisations between States. <p>The RIS on these reforms will be finalised in the next few months and, by mid-2017, standard regulation wordings will be drafted then implemented. WA already has some mutual recognition of other States' explosives occupational licences and security clearances.</p> <p>FIFO Mental Health Inquiry</p> <p>MIAC is working through the report recommendations and has met with the Mental Health Commission and the WA Association for Mental Health. It has also formed a Mental Health Strategies Working Group to identify good practice for industry.</p> <p>The APGA representative mentioned that pipeline operators also have a FIFO workforce but are not represented on MIAC, so they are working with CME to have input into the process.</p> <p>CCI noted that some companies are forcing small subcontractors to implement Employee Assistance Programs. CCI are also not represented on MIAC.</p> <p>DMP suggested that the working group may be an opportunity to provide input.</p>	
6.	Next meeting	
	The next meeting is Wednesday 27 July 2016, 8:30am – 10:30am.	