



Structure of Mining, Petroleum and Major Hazard Facilities Safety Legislation

Response to Consultation Regulation Impact Statement

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About CME

The Chamber of Minerals and Energy of Western Australia (CME) is the peak resources sector representative body in Western Australia funded by its member companies, which generate 95 per cent of the value of all mineral and energy production and employ 80 per cent of the resources sector workforce in the state.

The Western Australian resources sector is diverse and complex, covering exploration, processing, downstream value adding and refining of over 50 different types of mineral and energy resources.

In 2013-14, the value of Western Australia's mineral and petroleum production was \$121.6 billion, accounting for 91 per cent of the state's total merchandise exports. Furthermore, the value of royalties received by the Western Australian government from the resources sector increased by 33 per cent from the 2012-13 financial year to reach a record \$6.98 billion in 2013-14.

Issues and Recommendations

CME appreciates the opportunity to comment on the five options for consolidation of resource safety legislation as outlined in the Marsden Jacob's Associates Consultation Regulatory Impact Statement (CRIS) report.

Key issues and recommendations are outlined below with further detail on these in the subsequent sections of this submission.

Reform of Resource Safety Legislation

- CME recommends further consultation with industry on the proposed WHS (Mines) Bill to ensure industry has the opportunity to review and comment on the mining specific provisions.
- Industry supports the consolidation of legislation where this is likely to result in better safety outcomes including through the removal of regulatory and administrative burden. For this reason, industry does not support CRIS Option 5, the maintenance of the status quo.
- CME recommends Government continues to progress the modernisation of resources safety legislation in Western Australia to remove unnecessary prescription and align this legislation with best practice risk based outcomes focused approaches to safety management.
- Irrespective of which consolidation option is progressed, CME considers it is critical (where possible) that alignment of principles and consistent terminology are applied across legislation and also at a national level across jurisdictions.
- CME recommends further consultation with industry on the proposed WHS (Mines) Bill to ensure industry has the opportunity to review and comment on the mining specific provisions.

Consolidation Options – Industry Position

- Industry supports in principle the proposed consolidation Option 2, the modernisation and consolidation of resources safety legislation into two Acts:
 - one Act for mining;
 - one Act for petroleum and MHFs; and

- transfer of jurisdiction for personal safety at MHFs from Worksafe WA to DMP.

Concerns Regarding Option 1 – Full Consolidation

- CME recommends the current reforms remain focused on formalising a best practice risk based outcomes focused approach, which recognises and responds to the distinct risk management approaches adopted in the mining, petroleum and Major Hazard Facility (MHFs) sectors.
- CME recommends specialist ‘divisions’ within the DMP and specialist expertise within the inspectorate be maintained and strengthened. Industry values the role of the regulator in providing advice on best practice and working collaboratively to promote continuous improvement.
- CME supports the regulatory regime for the petroleum industry remaining separate and achieving greater alignment with Commonwealth legislation.

Regulatory Impact Statement - Option 2

- CME recommends the CRIS process also consider the impact of the reform process on industry noting Option 1 would effectively require the mining sector to experience two large scale reforms in succession. CME considers Option 2 may facilitate shorter reform time frames and therefore reduce cost impacts on industry.
- Consolidated legislation should adopt a process for formal review and Governmental oversight for the development of subsidiary legislation including Codes of Practice.
- CME welcomes additional information on costs and savings associated with the consolidation options in addition to anticipated improvement in safety outcomes.
- CME recommends the levy process be reviewed and streamlined in line with the objectives of the current reform. Further, CME recommends any savings achieved by the regulator as a result of consolidation be passed to industry by a reduction in levies.
- Any changes to the fee structure for cost recovery of DMP inspectorate services should include close consultation with industry.

Context

CME appreciates the opportunity to comment on options for the future structure of resources safety legislation in Western Australia and considers this to be a critical decision point in the context of broader safety legislation reforms currently underway.

The release of the Marsden Jacob's Associates CRIS report was welcomed by industry. However, the lack of detail regarding anticipated costs and benefits of the proposed options and the short timeframe for consideration were disappointing.

While the CRIS provides some high level assessment of consolidation options and outlines a number of opportunities to streamline the regulatory structure, it is difficult to anticipate the full potential benefits and impacts to industry in the absence of further analysis and detail around the proposed structure and content of the legislation.

Following consultation on the CRIS, CME understands a Decision Regulatory Impact Statement (DRIS) will be released, containing a more detailed analysis. However, because the DRIS will be based on only one option, CME considers there is a risk this process will miss the opportunity to identify an optimal legislative structure which maximises benefits, including improving safety outcomes and minimising costs to the regulator and to industry.

CME member companies have considered the information in the CRIS and developed a preferred position based on the available information. However, full support for any of the proposed consolidation options continues to rest on a review of the detail.

The content of this submission summarises the view of a broad range of CME member organisations. These comprise companies that operate in the mining, petroleum, pipelines and MHF areas of the resources sector. That is, it reflects the combined resources sector view on the various consolidation options from the perspective of the organisations that will be impacted by the proposed reforms.

Reform of Resource Safety Legislation

CME has consistently supported:

- the modernisation and simplification of safety legislation in Western Australia with the aim of achieving risk based legislation that removes unnecessary prescription;
- reform of safety legislation in Western Australia to be aligned with the model Work Health and Safety (WHS) legislation (subject to certain key amendments) to allow for operational efficiencies for companies working across jurisdictions; and
- separate legislation for the mining, petroleum and general industry sectors to address sector specific hazards and risk management processes.

In this context, CME welcomes the State Government's commitment to modernising Western Australian safety legislation in line with the objectives of national harmonisation and tailored to suit the specific operating environment in Western Australia. CME continues to support the broad principles of national harmonisation of WHS laws and acknowledges the operational benefits to companies operating across jurisdictions.

CME is represented on the Safety Legislation Reform Ministerial Advisory Panel (MAP), the Mining Industry Advisory Committee (MIAC) and Council of Occupational Health and Safety (COSH). These are important and effective mechanisms to ensure industry input and CME looks forward to continuing to work with government and other stakeholders to progress these reforms.

However, while the recent release of the WHS 'Green Bill' for general industry has been welcomed, CME understands there may not be an opportunity for industry to review and comment on the draft WHS (Mines) Bill prior to this being tabled in Parliament.

CME recommends further consultation with industry on the proposed WHS (Mines) Bill to ensure industry has the opportunity to review and comment on the mining specific provisions.

Focus on Safety Outcomes

CME acknowledges the current legislative environment for safety in Western Australia is overly complex with three separate Acts regulating the petroleum sector; and two separate Acts for MHFs – one for process safety and one for personal safety.

CME considers it is imperative any consolidation of the resources safety legislation achieves better safety outcomes, when compared to the current regime. Western Australia must ensure the best practice elements of the proposed and existing laws are retained, while removing duplication, complexity and inefficiencies to extract maximum benefits from these changes.

To achieve better safety outcomes, CME supports the objective of modernising resources safety legislation to develop a regulatory structure which supports the delivery of high standards of safety in an efficient, equitable and consistent manner across mining, petroleum and MHFs.

CME considers that those high standards of safety are achieved by:

- an outcomes based approach to legislation which encourages proactive compliance and innovation in the way in which risks are managed rather than 'tick the box' compliance with prescriptive requirements;
- consistency (where appropriate) between legislation and jurisdictions to increase efficiencies and remove complexity for operators; and
- a well-resourced, highly skilled regulator that is familiar with the different risk profiles of mining, petroleum and MHFs.

Industry supports the consolidation of legislation where this is likely to result in better safety outcomes including through the removal of regulatory and administrative burden. For this reason, industry does not support CRIS Option 5, the maintenance of the status quo.

Removal of Prescription

Industry continues to raise concerns that the MSIA is overly prescriptive and in need of reform to align it with best practice and to move to a risk based outcomes focused approach.

The provisions relating to statutory positions are a good example. Prescriptive and onerous MSIA requirements around deputy appointments to cover routine absences from site are out of step with modern operational practices. Ambiguity regarding the interpretation of these provisions is creating uncertainty and placing an unnecessary impost on companies.

Another example of this prescription is the provisions relating to the use of electricity in mines under the *Mines Safety and Inspection Regulations 1995* (MSIR). These provisions run to over 20 pages and include prescriptive requirements including references to Australian Standards which apply in addition to those in the Electricity Act and its accompanying regulations.

Industry considers these onerous provisions could easily be dealt with by way of an outcomes based requirement, with specific measures moved to guidance material, allowing the legislation to be simplified to focus on general, less prescriptive duties and required outcomes for the management of risks.

CME recommends Government continues to progress the modernisation of resources safety legislation in Western Australia to remove unnecessary prescription and align this legislation with best practice risk based outcomes focused approaches.

Consistency

The Western Australian resources industry strongly supports the maintenance of two separate legislative instruments for general and mining and petroleum-specific safety legislation. Alignment between these separate instruments is crucial, however, to ensure a streamlined operational environment for industry, based on best practice risk based principles for safety management.

Misalignment of terminology, enforcement mechanisms and other core provisions for general industry and the resources sector would create unnecessary complexity and impost in that corporate offices could be subject to a different regulatory approach than operational areas within the same business.

Irrespective of which consolidation option is progressed, CME considers it is critical (where possible) alignment of principles and consistent terminology is applied across legislation and also at a national level across jurisdictions.

Such consistency provides clarity to organisations and workers on what is required by the legislation. As an example, the use of the term 'safety case', 'safety management system' and 'safety report' in the current petroleum and MHF legislation is unnecessarily confusing when the terms are used to describe a very similar document.

Consolidation Options - Industry Position

Industry supports in principle the proposed consolidation Option 2, the modernisation and consolidation of resources safety legislation into two Acts:

- **one Act for mining;**
- **one Act for petroleum and MHFs; and**
- **transfer of jurisdiction for personal safety at MHFs from Worksafe WA to DMP.**

Of the options presented in the CRIS CME considers the most significant benefits to industry can be achieved by Option 2, namely:

- achieving improved safety outcomes through consolidating and simplifying petroleum legislation and MHF legislation;
- removing the complexity and duplication of two regulators regulating MHFs – removing the distinction between personal and process safety regulation; and
- maintaining separate Acts and dedicated specialist areas within DMP.

However, in providing in principle support for Option 2, it is important to note industry:

- is opposed and would have significant concerns with the implementation of Option 1, full consolidation of the legislation within a single Act;
- supports the maintenance of separate mining and petroleum safety legislation to reflect the distinct risk management approaches;
- supports the consolidation of MHF legislation within a streamlined petroleum safety Act; and
- considers there are minimal potential benefits in consolidation above and beyond the potential benefits associated with Option 2.

Industry's full support for Option 2 rests on a review of the detail.

Concerns Regarding Option 1 – Full Consolidation

Best Practice Risk Based Approach

CME has consistently supported the transition towards a risk based approach to legislation which removes prescription and allows operators of projects to identify risks and control measures.

However, there are sector specific approaches to the implementation of the risk based requirements across the mining, petroleum and MHF sectors which are imperative to be retained. As discussed above, industry considers Option 2 provides the best guarantee that these approaches will be retained, with the intended benefits to health and safety outcomes.

Industry is concerned full consolidation under Option 1 would lead to existing sector specific approaches being standardised, with a detrimental impact on safety outcomes.

CME notes the move to standardise these approaches is evident in the Review of the Dangerous Goods Act 2004 with a statement in the final report noting 'anticipated focus of [the resources safety] legislation [will be] on a safety case model of regulation'¹

In order to understand the nature of the concern it is necessary to understand the difference in the current legislation and the requirements that CME considers should be included in modernised legislation.

Safety case

The 'safety case' model required in the petroleum and MHF sectors is a broader risk based approach in which an operator demonstrates major accident events have been assessed and controlled.

An accepted safety case provides all stakeholders with assurance that an operator can achieve the safe operation of the facility by using adequate control measures and satisfactory management systems. It is appropriate in the context of complex major hazard petroleum and MHF operations.

Indeed, in the context of complex, dynamic and high risk activities (such as those in the petroleum sector) it is essential responsibility for managing risks lies at the point of operations, that the workforce are involved and that organisations are not 'hamstrung' by prescription in the legislation. The focus should be on continuous improvement, not a demonstration of minimum compliance.

¹ Review of the Dangerous Goods Act 2004, Report to the Minister for Mines and Petroleum, p 2, [http://www.parliament.wa.gov.au/publications/tables/papers.nsf/displaypaper/3912152af8940a700314852c48257d5e00070f98/\\$file/2152.pdf](http://www.parliament.wa.gov.au/publications/tables/papers.nsf/displaypaper/3912152af8940a700314852c48257d5e00070f98/$file/2152.pdf)

The safety case model allows an operator to demonstrate consultation with the workforce and other relevant community stakeholders has occurred in its development and allows for an integration of process and personal safety, community engagement requirements and environmental factors that are not required by the safety management system model required in the mining sector.

In the safety case model, a safety management system is only one part of a safety case with other elements setting out (among other things) a description of the facility and the work to be conducted at it, the risk assessments conducted, the emergency arrangements in place and a demonstration that control measure are adequate to control risks to a level that is as low as is reasonably practicable (ALARP).

Safety management system

The safety management system model in the mining industry is a narrower risk based approach. This is appropriate for and supported by that industry. This is because:

- the safety management system responds to identified hazards and implements controls to manage the risks arising from those hazards; and
- the acceptance of a broad demonstration of operational adequacy by the regulator is not required and would be unnecessarily burdensome.

Industry considers it would place an unnecessary burden on industry to develop a 'safety case' style document to set out *how* risks will be managed for the lifecycle of a project when the safety management system allows for an adequate risk based approach to be taken to the management of risks. It would also require the inclusion of information that was not appropriate in the context of mining operations such as a description of the mine. Further, it would place a burden on the regulator to review and accept 'safety case' style documents in the mining industry.

The table below summarises the difference in the approaches taken to manage risks across the mining, petroleum and MHF sectors. It further sets out the position that CME considers should be a feature of the two Acts for Option 2.

	Mining
Current position	<ul style="list-style-type: none"> ○ The requirement for a principal employer at a mine to develop and implement a safety management system is implicit in the general duties under the MSIA.
Proposed position	<ul style="list-style-type: none"> ○ CME has consistently supported the inclusion in modernised mine safety legislation of a requirement for a mine operator to develop and implement a WHS management system (WHS-MS). ○ Industry also supports inclusion of hierarchy of control risks management provisions, however has indicated further consideration around proposed changes including Principal Mining Hazard Management Plans and Principal Control Plans is required. ○ WHS-MS are designed to address the specific nature of the hazards associated with mining and develop controls to mitigate the hazards that arise from these risks. That is, they require the hazards unique to the mining operations to be identified and controlled without an unnecessarily burdensome approach being taken that requires a wider demonstrate of 'adequacy' that is required by a safety case model.
	Petroleum
Current position	<ul style="list-style-type: none"> ○ The Petroleum (Submerged Lands) (Management of Safety on

	<p>Offshore Facilities) Regulations 2007 and the Petroleum Pipelines (Management of Safety of Pipeline Operations) Regulations 2010 require the development and implementation of a 'safety case' for the facility or pipeline (as applicable).</p> <ul style="list-style-type: none"> ○ The Petroleum and Geothermal Energy Resources (Management of Safety) Regulations 2010 require the operator to develop and implement a 'safety management system'. ○ The required content of the safety cases / safety management system under the three pieces of petroleum safety legislation are very similar and require a demonstration that the incidents that may result in a 'major accident event' have been appropriately controlled. The use of the term 'safety management system' in that context is therefore confusing. ○ The safety case / safety management system must be accepted by the regulator. This acceptance of the safety case is an important feature of the petroleum safety legislation as it provides additional regulatory oversight of a high hazard industry. ○ The safety case is a goal setting, performance based regime in which an operator demonstrates that risks have been controlled to a level that is ALARP. ○ The regulator assesses compliance against an operator's safety case together with the legislation.
Proposed position	<ul style="list-style-type: none"> ○ CME supports the retention of the safety case for petroleum operations. ○ Further, CME supports the simplification and consolidation of the separate petroleum legislation into a single Act, with the use of a single term of 'safety case' to describe the documents required to demonstrate safety adequacy for offshore, onshore and pipeline operations – this objective is most consistent with Option 2.
	MHF
Current position	<ul style="list-style-type: none"> ○ The Dangerous Goods Safety (Major Hazard Facilities) Regulations 2007 require the operator of a MHF to develop and implement a safety report. ○ The safety report must be accepted by the regulator. It must contain the information prescribed in the Regulations including setting out the risk assessment for the facility and the safety management system of the facility.
Proposed position	<ul style="list-style-type: none"> ○ CME supports the removal of complexity in the regulation of MHFs by DMP and Worksafe WA through the transfer of jurisdiction for MHFs to DMP. ○ CME supports the retention of a risk based outcomes focused approach to MHF regulation. However, considers further consolidation is required to ensure the regulation of MHF remains focused on safety outcomes and minimising unnecessary prescription.

Requirement for Specialist Divisions in DMP

CME considers that it is imperative DMP retain specialist 'divisions' and inspectors with skills aligned to the industry sector they regulate. This is to ensure:

- inspectors have technical expertise and familiarity with the industry sector they regulate; and
- are able to act as a coach, mentor and verifier to the specific industry sector against required standards.

CME is concerned that Option 1 could result in a broader regulatory reach with less emphasis on maintenance of specialist skill sets of inspectors. Given the diverse and complex nature of mining, petroleum and MHF operations, CME considers it is critical to maintain specialist senior inspectors to ensure industry continues to derive a high level of service from the inspectorate.

Further, there is a risk that it reduces the capacity of the regulator more broadly to develop and retain specialist knowledge of the hazards and risks associated with the mining and petroleum sectors of the industry. CME considers this risk is minimised under Option 2 given DMP and inspectors would administer two separate (albeit aligned) pieces of legislation.

Additionally, CME considers maintaining separate Acts for mining and petroleum safety will enable these Acts to more easily be reviewed for effectiveness and amended in response to new learnings and other changes unique to these sectors.

CME recommends the current reforms remain focused on formalising a best practice risk based approach, which recognises and responds to the distinct risk management approaches adopted in the mining, petroleum and MHFs sectors.

The importance of the retention of specialist skills within regulators has consistency been recognised. For example:

- the 2003, National Mine Safety Framework Implementation Plan Discussion Paper made recommendations in support of a professional and technically competent mines inspectorate with appropriate industry experience and qualifications²;
- in 2008, the Queensland Ombudsman's report into the Queensland Mines Inspectorate identified that the mines inspectors interviewed in preparing that report 'were adamant that the mining industry is an area of unique specialisation, and that risks are encountered in the industry which do not exist elsewhere'. Further, that 'generic workplace health and safety inspectors would not be well placed to handle mine safety matters'³;
- in 2014, in making submissions to the Senate Standing Committee on Education and Employment on its inquiry into the Safety, Rehabilitation and Compensation Legislation Amendment Bill 2014, the Queensland Government reiterated the importance of a separate mines inspectorate (in that case drawing the distinction between the mines inspectorate and Comcare)⁴;

² Conference of the Chief Inspectors of Mines, National Mine Safety Framework Implementation Plan, Discussion Paper, October 2003, http://www.ga.gov.au/image_cache/GA2663.pdf

³ Queensland Ombudsman, The Regulation of Mine Safety in Queensland, A review of the Queensland Mines Inspectorate, June 2008, http://www.ombudsman.qld.gov.au/Portals/0/docs/Publications/Inv_reports/Mine%20Inspectorate%20Report17June08%20WEB.pdf

⁴ Queensland Government, Submission on the Safety, Rehabilitation and Compensation Legislation Amendment Bill 2014, June 2014, http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Education_and_Employment/Safety_Rehabilitation_and_Compensation_Legislation_Amendment_Bill_2014/Submissions

- again in 2014, the Third Audit of the Mine Safety Unit and Office of Chief Inspector of Mines in Tasmania championed the historical specialisation of inspectors in Queensland. The report emphasised that a high level of expertise of mines inspectors was critical to allow them to identify and resolve concerns that may have otherwise led to serious accidents⁵;
- in the second reading speech for the Work Health and Safety (Mines) Bill 2013 (NSW) Chris Hartcher emphasised that specific inspectors should be allocated to the mining industry. This was highlighted as being important due to the inherently hazardous nature of these workplaces requiring specialised inspectors to capably identify problems⁶; and
- one of the key findings into the 2010 Pike River Coal Mine tragedy was that an underlying cause of the accident was the 'inadequately resourced and skilled inspectorate'.⁷

CME recommends specialist 'divisions' within the DMP and specialist expertise within the inspectorate be maintained and strengthened. Industry values the role of the regulator in providing advice on best practice and working collaboratively to promote continuous improvement.

Ability to respond to further national regulatory change in petroleum industry

Consolidating mining and petroleum legislation into a single Act would make it harder for WA to respond to any further national reform of petroleum safety legislation. The option for the petroleum industry to be subject to more consistent national laws should be left open.

Specifically, CME notes that there has been recognition of the need to address areas of industry specific duplication in the petroleum industry. This has included moves by the Commonwealth to streamline environmental assessments for petroleum activities by consolidating NOPSEMA as the key regulatory agency for all federal approvals.

The regulatory regime for petroleum safety, in particular for offshore safety, should remain integrated with environment, facility safety and well integrity. So far as practicable, the legislation should be harmonised with schedule 3 to the Offshore Petroleum and Greenhouse Gas Storage Act 2009 (Cth) and its accompanying regulations.

CME supports the regulatory regime for the petroleum industry remaining separate and achieving greater alignment with Commonwealth legislation.

⁵ Michael Quinlan, Third Audit of the Mine Safety Unit and Office of Chief Inspector of Mines, Worksafe Tasmania, April 2014, http://worksafe.tas.gov.au/__data/assets/pdf_file/0008/288845/Quinlan_Report_2014.pdf

⁶ Work Health and Safety (Mines) Bill 2013 (NSW), Second Reading, Chris Hartcher, 23 May 2013, [http://www.parliament.nsw.gov.au/prod/parlment/nswbills.nsf/0/fe9af839df348f23ca257b7200203728/\\$FILE/2R%20Work%20Health%20Mines.pdf](http://www.parliament.nsw.gov.au/prod/parlment/nswbills.nsf/0/fe9af839df348f23ca257b7200203728/$FILE/2R%20Work%20Health%20Mines.pdf)

⁷ Government of New Zealand, Royal Commission on the Pike River Coal Mine Tragedy, 2012, [http://pikeriver.royalcommission.govt.nz/vwluResources/Final-Report-Volume-Two/\\$file/ReportVol2-whole.pdf](http://pikeriver.royalcommission.govt.nz/vwluResources/Final-Report-Volume-Two/$file/ReportVol2-whole.pdf)

Regulatory Impact Statement – Option 2

Burden of regulatory reform

Industry considers full consolidation of this legislation into a single Act will unnecessarily increase the burden of regulatory reform, especially for the mining sector. CME understands DMP intends to continue to progress the drafting of the legislation to replace the MSIA and for this legislation to be enacted prior to the consolidation proposed by Option 1.

CME has consistently supported this reform and notes progress towards the modernisation of WHS legislation for general industry and the mining industry has enjoyed significant momentum over the last year. However, a similar modernisation agenda for petroleum legislation in Western Australia has not yet commenced and an effort to fold this into the ongoing reform of mines safety legislation risks derailing the forward momentum of these reforms.

Industry is also concerned Option 1 could create additional regulatory burden and impact detrimentally on safety outcomes as there would be an additional training and compliance burden associated with the legislation changing twice in quick succession. That is, it requires retraining of workers and organisational 'up skilling' to become familiar with new legislation.

Additionally, the transition from one regulatory regime to another can be a period of heightened risk. This risk would be particularly increased with two changes occurring in quick succession. Option 2 eliminates these additional burdens and allows the mining specific legislation to continue to progress.

CME Recommends the CRIS process also consider the impact of the reform process on industry noting Option 1 would effectively require the mining sector to experience two large scale reforms in succession. CME considers Option 2 may facilitate shorter reform time frames and therefore reduce cost impacts on industry.

Codes of Practice

Codes of Practice and other guidance material form an important part of the guidance available to industry. However, CME considers that it is necessary for the consolidated resources safety legislation to adopt a formal process for the review and implementation of Codes of Practice to:

- ensure that industry is provided with an opportunity to comment on these; and
- there is Governmental oversight of these, through an approval process.

CME, together with other industry associations in the resources sector, identified significant issues associated with over prescription within the regulations and Codes of Practice developed by Safe Work Australia for the Model WHS legislation. These concerns are noted in more detail in the CME submission to Safe Work Australia on the Model WHS Regulations and Codes of Practice⁸.

CME considers many of the issues raised could have been avoided if an appropriate consultative process with industry had been followed in the development of the model Codes. It is therefore critical that any consolidated legislation adopt a consultative process to ensure any supporting regulations and guidance material are developed with industry input to ensure:

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http://www.minerals.org.au/file_upload/files/submissions/MCA%20and%20Representatives%20Submission%20-%204%20April%202011.pdf

- unnecessary prescription is avoided;
- there is due regard for the required scope of information; and
- the most appropriate form of guidance to support industry compliance with required outcomes is adopted.

Consolidated legislation should adopt a process for formal review and Governmental oversight for the development of subsidiary legislation including Codes of Practice.

Cost and Benefits

CME notes the CRIS does not provide sufficient detail to enable industry to form a view on which option may achieve savings or impose additional costs. Further, there is insufficient detail to weigh the potential benefits to safety outcomes against the proposed consolidation options.

While it is understood a more detailed analysis will occur through the DRIS, it is noted this process will only canvass one of the consolidation options and therefore may miss the opportunity to identify the option which will maximise cost savings and improvement to safety outcomes.

Further detail around the structure and content of the legislation under each of the proposed options would assist industry in making an assessment of the impacts and benefits.

CME welcomes the opportunity to review further detail on the proposed consolidation option including the costs, savings and anticipated improvement in safety outcomes.

The CRIS refers to a number of proposed cost savings likely to be experienced by the DMP from consolidation. To the extent these are achieved, industry considers these cost savings should be passed back to industry by the reduction of applicable levies.

There is also an opportunity through the consolidation and regulatory reform process to address unnecessary prescription in the way the current levy fees and payments for mines, petroleum and MHF safety are calculated.

While industry acknowledges the requirement to pay the safety levy, the current calculation methodology and reporting requirements are overly prescriptive and create significant administrative burden for companies.

Additionally, WorkSafe WA does not currently have a levy for the provision of inspectors to regulate personal safety at MHFs. Industry is concerned the transfer of this responsibility to DMP may result in increased levies creating an additional impost on MHFs.

It is understood DMP intend to cover this service within existing inspectorate capacity. Industry would support this approach provided the inspectorate maintains the requisite expertise and the broadening of this role for MHF inspectors does not detract from a focus on process safety within MHFs.

CME has consistently argued cost recovery for the administration of government regulatory responsibilities must be transparent, accountable, and deliver an efficient and effective service back to industry.

CME recommends the levy process be reviewed and streamlined in line with the objectives of the current reform. Further, CME recommends any savings achieved by the regulator as a result of consolidation be passed to industry by a reduction in levies.

Any changes to the fee structure for cost recovery of DMP inspectorate services should include close consultation with industry.

Conclusion

In summary, it is important to continue with the modernisation of resources safety legislation in Western Australia. This reform should:

- pursue the best safety outcomes;
- recognise and respond to the sector specific approaches to risk management;
- ensure that the burden of regulatory reform is minimised; and
- ensure that the specialist skills of the regulator are maintained.

Industry consider these outcomes are most consistent with Option 2 and supports further analysis of the potential benefits to safety outcomes as well as reduction in regulatory complexity and administrative burden which may be achieved through implementation of this Option.

CME looks forward to continuing to work closely with DMP, Department of Commerce and other stakeholders to progress these important reforms.

If you have any further queries regarding the above matters, please contact Adrienne LaBombard, Manager – Workplace Health and Safety on (08) 9220 8250 or at a.labombard@cmewa.com

Authorised by	Position	Date	Signed
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