



## COMMUNIQUE

14 February 2024

---

The Mining and Petroleum Advisory Committee (MAPAC) met on 14 February 2024. Discussion focused on the definition of construction work, mine statutory position transitional arrangements and codes of practice.

### **Definition of Construction Work**

MAPAC continued its discussion on the application of the definition of construction work in the Work Health and Safety (Mines) Regulations 2022 where such work is carried out on a mine site. Discussion focused on what is classified as 'minor works', overlap of construction with Mines Safety Management Systems (MSMS), and conduct of work in accordance with the management system.

Peak body representatives advised that to comply with the requirements, all persons carrying out maintenance activities on a mine site need to have a white card, and that there is no practical value in this requirement where the work activity falls within the MSMS. This could be addressed through the exclusion of shut down work on fixed plant on mine sites and removal of the legislative requirement to have a white card on mine sites.

MAPAC discussed the development of guidance material to help clarify what is deemed a construction activity on a mine site. While further guidance would assist industry, it was not fully agreed this would entirely address the issue.

The matter is to be referred to the Work Health and Safety Commission (WHSC) to consider whether there needs to be regulatory change.

### **Mines Safety and Inspection Levy**

An annual agenda item on the Mines Safety and Inspection Levy is to be trialled at the September 2024 meeting of MAPAC.

General information on levy expenditure is to be provided, with similar information provided for the petroleum safety levy.

### **External Feedback on Mines Safety Performance**

WorkSafe Mines Safety is developing an 'action plan' in response internal and external feedback received as part of its 2023 review of its strategic plan for 2024 and beyond.

MAPAC discussed the application of work health and safety (WHS) requirements by WorkSafe inspectors, challenges around the number of inspectors, and complexity of

regulations. Training, coaching and team-based development is ongoing across WorkSafe inspectorates to ensure consistency in the application of the regulations.

The *Work Health and Safety Act 2020* (WHS Act) provides opportunity for compliance decisions to be reviewed. More information is available at [Request for review of decisions | WorkSafe](#).

It was noted complaint or conduct concerns are managed through a separate process.

### **Sexual and gender-based harassment.**

The WHSC is to adapt and adopt the model Code of Practice: *Sexual and gender-based harassment* and revoke the sexual harassment section of the Western Australian workplace behaviour code.

In response, MAPAC discussed the importance of guidance on psychosocial issues, including sexual and gender-based harassment, and greater clarity for stakeholders as to the most appropriate code to refer.

It was noted that to adopt or adapt a code is an intensive process to ensure it adheres to Western Australian legislative requirements.

### **New Positive Duty under the *Sex Discrimination Act 1984* (Cwlth)**

MAPAC noted the introduction of a new 'positive duty' in relation to sexual harassment and sexual discrimination at work; and new functions and powers for the Australian Human Rights Commission to monitor and assess compliance with the 'positive duty' following amendments to the *Sex Discrimination Act 1984* (Cwlth).

### **Review of White Card System**

MAPAC welcomed the commencement of a review of the White Card System by the Western Australian Building and Construction Consultative Committee.

### **Reduction of the Welding Fumes WES**

MAPAC noted the National WHS Ministers decision to immediately reduce the workplace exposure standard (WES) for welding fumes (not otherwise classified) from an 8-hour time weighted average (TWA) of 5mg/m<sup>3</sup> to 1mg/m<sup>3</sup>.

Welders, and boilermakers are the main exposure groups.

MAPAC discussed the implementation of the welding code of practice. WorkSafe is currently reviewing options to monitor compliance.

### **Vehicle Rollaway**

MAPAC supported the WHSC's recommendation to amend the Western Australian code following recent updates to the model Code of Practice: *Managing the risks of plant in the workplace*. MAPAC sought the inclusion of options for large mining equipment including V-drains.

## **Statutory Positions examinations**

Mines Statutory Positions holders certified under the *Mine Safety and Inspection Act 1994* (MISA) must transition to requirements of the WHS Act within three years of commencement of the WHS Act.

Transitional requirements include completion of a WHS legislative examination, facilitated by the Department of Energy Mines Industry Regulation and Safety. To date, around 1,150 Statutory Position holders have completed the legislation examination. An estimated 6,000 MISA Statutory Position holders are yet to complete the examination as part of the transitional requirements.

WorkSafe is considering a range of options to ensure there is capacity for the timely completion of the legislation examination by MSIA Statutory Position holders that wish to transition.

MAPAC welcomed the increase in average pass rates by candidates, and acknowledged the time and effort made by industry to exam preparation programs.

## **Contractor Management Guidance**

A strategic focus area for WorkSafe Mines Safety in 2024 is contractor management. A large proportion of labour on mine sites is contracted rather than direct hire, highlighting potential risks to work health and safety.

MAPAC agreed in principle to the proposal for the development of a contractor management guide by WorkSafe Mines Safety, based on the CMEWA, *A Guide to Contractor Occupational Health and Safety Management for Western Australian Mines*, 1997.

MAPAC also considered the work of Michael Quinlan who, having recently presented at the Edith Cowan University Mining Awareness, Respect and Safety Mining Industry Symposium, has reviewed hundreds of studies on the work health and safety effects of non-standard work and higher incidents of injury, and poorer physical and mental health.

Employee representatives reiterated the need for contractors to be invited into the work health and safety system of the principal, such as access to elected health and safety representatives.

## **MEMBERS REPORTS AND UPDATES**

### **Employer Representatives**

Industry appears to be in a state of flux in relation to MSMS and principal hazard management systems as the transition period expires. Industry appreciates a collaborative approach to the implementation.

There is a changing state of mining through decarbonisation and risks coming out of that. Industry looks forward to collaborating with the regulator to work through these nuances.

### **Employee Representatives**

Currently silica and other dust are a focus area within laboratories (assay), particularly in the Goldfields. There are a large number of backpackers, migrant workers, and women at the entry level of laboratory work. The AMWU is broadly looking at correct training, supervision and fit for purpose PPE being provided.

## WorkSafe

Levy hours are required to be reported quarterly under the WHS legislation. WorkSafe is working with industry to ensure reporting requirements are met.

A specialist epidemiologist, in consultation with WorkSafe occupational physicians, has been engaged to review WorkSafe's data set for silica monitoring samples. Findings are to be reported in December 2024.

WorkSafe Mines Safety will host a gathering of radiation safety officers from across the state in March 2024. The technical forum will include discussion of the NORM II guide.

National WHS Ministers will meet in March 2024 to progress National policy on silica, including prohibiting engineered stone and regulation of silica risk work. It is intended silica risk work be facilitated through the WHS (General) Regulations as the WHS (Mines) Regulations already have similar provisions.

## Legislation Update

The Petroleum Amendment Bill 2023 was introduced to Parliament in November 2023. The Bill seeks to amend Western Australia's petroleum legislation (*Petroleum and Geothermal Energy Resources Act 1967*, *Petroleum Pipelines Act 1969*, and *Petroleum (Submerged Lands) Act 1982*) to enable the transport and geological storage of greenhouse gas, permit the exploration and production of prescribed regulated substances, such as naturally occurring hydrogen, and the electronic lodgement and service of documentation.

Parliament is to debate changes to the *Petroleum and Geothermal Energy Safety Levies Act 2011* in mid-February 2024. Amendments will seek to extend the application of the safety levy to activities relating to greenhouse gas and regulated substances.

**The next meeting of MAPAC is to be held on 10 April 2024.**