

Commission for Occupational Safety and Health MINUTES – 6 May 2020

Meeting No:	395	Time:	8.30am
Venue	Teleconference	Secretariat:	Department of Mines, Industry Regulation and Safety (DMIRS)

Attendees

Ms Stephanie Mayman	Chair
Mr Darren Kavanagh	WorkSafe Western Australian Commissioner (Commissioner)
Ms Joy Barrett	UnionsWA
Dr Alison Reid	Expert member
Dr Matthew Davies	Expert member
Ms Adrienne LaBombard	Chamber of Minerals and Energy WA (CMEWA)
Ms Andrea Roelofs	Chamber of Commerce and Industry WA (CCIWA)
Mr Owen Whittle	UnionsWA
Dr Julia Norris	Expert member
Ms Christina Folley	A/Director Mines Safety, DMIRS
Mr Glenn McLaren	UnionsWA
Mr Paul Moss	Chamber of Commerce and Industry WA (CCIWA)

Invited Guests

Mr Ian Munns	Deputy Director General Safety Regulation, DMIRS
Mr Chris White	Chief Executive Officer, WorkCover

Apologies

Nil

Executive Support

Dr Tony Stephens	Executive Officer, DMIRS
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Administrative Support

Ms Sari Mattila	External Consultant
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1 ADMINISTRATION

1.1 Opening and welcome

The Chair opened the teleconference meeting at 8.32am and welcomed members.

1.2 Apologies

Nil

1.3 Confirmation of agenda

The agenda was confirmed as the business of the meeting.

1.4 Declarations of conflicts of interest

Conflicts of interest for items involving health and safety representative training were declared by the CCIWA and UnionsWA representatives.

1.5 Other Business admitted by the Chair

The Chair advised that no other business would be admitted to the meeting.

2 PREVIOUS MEETING/S

2.1 Confirmation of previous meeting minutes

A motion to accept the minutes of meeting 394 held on 1 April 2020 was **ENDORSED**.

Moved: Dr Matthew Davies, Expert Member; seconded: CCIWA.

2.2 Review action list from previous meeting

The Chair asked if members had any questions regarding the general action list and the DMIRS action list.

The Commission **AGREED** the DMIRS action item 2.3 dated 16 October 2019 is now complete. Ms Christina Folley provided MIAC's comments relating to the nDPM research recommendations to Commission members, via the Chair. The matter will now be discussed during Agenda Item 2.4.

In relation to DMIRS Action Item 2.5 dated 16 October 2019, Australian Training Services had trialled online training in 2017 and was willing to provide an evaluation report which suggested the training was not very successful. UnionsWA representatives and expert member Dr Matthew Davies are interested in reviewing the report in relation to participant feedback, trainer feedback and lessons learned. The UnionsWA representative noted that with the easing of social distancing restrictions, the issue of online learning could be void before the next Commission meeting. It was **AGREED** the evaluation report be circulated to Commission members prior to the next meeting. Dr Matthew Davies supported the recommendation and it was seconded by the CCIWA representative.

Members advised that they had no other questions and the action list was **NOTED**.

ACTION:

The Executive Officer will circulate Australian Training Services' evaluation report regarding online training conducted in 2017, to Commission members prior to the next meeting.

2.3 Spirometry testing update – Ms Liz McLeod, Department of Health

At the Commission's 1 April 2020 meeting, during a presentation by Ms Liz MacLeod and Mr Steve Gregory from the Department of Health, Commission members asked about spirometry testing requirements for pesticide licenses during the COVID-19 pandemic.

The Chair presented written information provided by Ms MacLeod and Mr Gregory, that the requirement for a medical every five years is separate to a licence renewal and that renewal of a license is not tied to a medical assessment. If a five-year medical review is due, the person undertaking the assessment can make a determination that a person is fit for duties based on a respiratory questionnaire, instead of a lung capacity test.

The Commission **NOTED** the advice.

2.4 Discussion paper on nano-diesel particulate exposure – Mining Industry Advisory Committee (MIAC) recommendations

The Chair presented a paper which provided information about recommendations made by MIAC to the Minister on diesel particulate matter exposure standards.

The paper noted that:

On 15 March 2020, the Minister approved a DMIRS recommendation to amend the Mines Safety and Inspection Regulations 1995 (MSI Regulations) to specify an exposure standard of 100 micrograms per cubic metre ($\mu\text{g}/\text{m}^3$) as the workplace exposure standard for DPM in Western Australian mining operations. The MSI Regulations and the Occupational Safety and Health Regulations 1996 (OSH Regulations) do not currently specify a DPM standard.

The Commissioner noted that Safe Work Australia is currently reviewing exposure standards, but that it had limited data available to make a recommendation.

Commission members welcomed the information received from MIAC, with several members noting that a broader perspective could be considered in relation to diesel exposure standards in the general workforce. Expert member Dr Alison Reid advised members of relevant diesel exposure research conducted in 2017. The Chair requested that Dr Reid and any other members forward Western Australian based research to the Executive Officer for collation and referral to the Legislative Advisory Committee (LAC) for consideration at its next meeting.

The Commission **AGREED** to collate research documents relating to diesel exposure in a variety of industry sectors, which will be forwarded for consideration by LAC. Members of LAC will then present a position to the Commission about whether a submission should be made to Safe Work Australia in relation to its work in evaluating workplace exposure standards for diesel engine emissions

The Commission **AGREED** to invite Dr Alison Reid to the next LAC meeting to provide advice and insight into existing research.

ACTION:

The Executive Officer will collate research documents relating to diesel exposure in a variety of industry sectors for referral to LAC.

ACTION:

The Commission will consider the position presented by LAC regarding the need to make a submission to Safe Work Australia in relation to its work in evaluating workplace exposure standards for diesel engine emissions.

3 AGENDA ITEMS

3.1 Consultation process on updated COVID-19 guidance material on the Safe Work Australia website

The Commissioner provided information about the development of guidance material published on the Safe Work Australia website, and thanked Commission members for their prompt review of this draft material.

The Commissioner noted that regulators around Australia had agreed to take a consistent national approach in all materials produced to allay concerns about reliability of information. One of the main sources had been the Australian Health Protection Principal Committee (AHPPC). This resulted in a Statement of Regulatory Intent.

The Commissioner also spoke about the work completed nationally to provide information to assist industry to get back to work safely. Specific documents had been drafted to prepare for re-start of business and are now available on the Safe Work Australia website.

The Chair also thanked Commission members for their efforts in keeping to the tight timelines required during the review process.

The UnionsWA representative thanked the Commissioner for the opportunity to comment on the documents.

The Commission **NOTED** the advice.

3.2 Progress report on the amalgamation of dangerous goods legislation

The Chair presented a progress report on the amalgamation of dangerous goods legislation prepared by the DMIRS Manager Dangerous Goods.

The amalgamation aims to redesign and rationalise existing dangerous goods, explosives and security sensitive ammonium nitrate licensing systems to allow simplification and streamlining of administrative elements. Amalgamation of the general, dangerous goods storage and handling, explosives and security sensitive ammonium nitrate regulations will remove overlaps, duplication and inconsistencies. It is not intended to change any of the existing technical requirements of the regulations, merely to bring them together in the style of the proposed new Work Health and Safety regulations.

CMEWA had not been directly consulted in the amalgamation and their stakeholders were not confident that all relevant people had been consulted. The CMEWA representative requested a further report with more detail about the level of consultation and the information provided to the companies being consulted. The CMEWA representative believed it would be beneficial for the Commission to receive a more comprehensive report which provides details of the changes made and the consultation process.

The Commission **AGREED** that a more detailed report should be sought.

ACTION:

The Executive Officer is to request a more detailed report on the amalgamation of dangerous goods legislation and consultation, to be circulated to Commission members in time for the next meeting, with a view to it also being circulated to stakeholders.

3.3 National position on delivery of WHS training during the COVID-19 pandemic

The Commissioner presented a paper seeking Commission member agreement to make a formal response to Safe Work Australia in relation to the Commission's responsibilities in approving registered training organisations to deliver health and safety representative training and construction induction training in Western Australia.

The Commissioner provided a suggested response for discussion in relation to the training component:

In Western Australia the Commission for Occupational Safety and Health (Commission) is responsible for approving registered training organisations (RTOs) to deliver health and safety representative training. The training utilises connected real time delivery is therefore required to be approved by the Commission.

Commission members are currently exploring different delivery modes with RTOs to mitigate issues caused by the coronavirus (COVID-19), with the condition that RTOs meet specified requirements and the different delivery modes are subject to time constraints (e.g. delivered whilst the COVID-19 issues remain prevalent).

The Commissioner provided a suggested response for discussion in relation to construction induction training component:

In Western Australia, RTOs are required to deliver the course consistent with the Standards for RTOs 2015. During the COVID-19 pandemic, providing RTOs deliver the general construction induction training' course to candidates located in Western Australia at the time of assessment as required by the Standards for RTOs 2015, there is no need to apply to WorkSafe in relation to connected real time delivery. The WorkSafe Division of the Department of Mines, Industry Regulation and Safety (WorkSafe) has no authority to approve or not approve connected real time delivery, method of delivery, or timeframes for delivery.

Commission members requested a clarification of the definition of “connected real time delivery”. The Commissioner suggested this included training via online means such as Zoom or Microsoft Teams.

Commission members supported the Commissioner’s suggested responses.

The Chair proposed an amended resolution to the Commission which was moved by UnionsWA and seconded by CCIWA. The Commission **AGREED** that the recommendation be amended to read:

The Commission has developed a process for approval of health and safety representative training which might include connected real time delivery or online delivery through development of guidelines and that the Commission, in WA, will have ultimate approval of that process.

The Commission **ENDORSED** the amended resolution.

3.4 Applications for online safety and health representative (SHREP) training

The Chair presented three applications from RTOs for delivery of online SHREP training.

UnionsWA representatives suggested the urgency and need for online training had now passed, with the easing of restrictions allowing up to 10 people to meet.

The CCIWA representative noted that although restrictions on the number of people able to meet had been eased, some employers were still reluctant to send employees to training. He also noted the restriction to travel regionally had not been lifted which could make it difficult for trainees or trainers to participate.

The UnionsWA representative also agreed some employers were still reluctant to send staff for training, and advised that one of the training providers, after the lifting of restrictions, had begun running courses as before. The UnionsWA representative suggested some of the methods proposed by the RTOs, such as changing between online platforms, would be difficult for some trainees.

The Commissioner noted that the Commission had presented guidelines for RTOs to adhere to in seeking approval from the Commission to provide online training and that these should be

considered. The Chair noted that the guidelines had been set in good faith and that applications must be considered.

The CCIWA representative said it was a valuable exercise to consider the applications for online delivery of SHREP training, if in some future circumstance, face-to-face training could not be conducted.

The UnionsWA representative suggested it was important to consider the feedback from a trial conducted in 2017 before applications were assessed and approved. (Refer to action Item 2.2)

The Chair proposed that the applications be considered at the next LAC meeting along with the evaluation report from the training provider who trialled online training in 2017.

The Commission **AGREED** to refer the applications for consideration at the LAC meeting on 13 May 2020.

ACTION:

The Executive Officer to include consideration of applications from RTOs for delivery of online SHREP training in the LAC agenda on 13 May 2020.

3.5 Update on Construction Induction Training

The Commissioner provided an update on the progress of advice and examples of stakeholder concerns with the construction induction training required under the Occupational Safety and Health Regulations 1996 (OSH Regulations). This task had been requested from the Construction Industry Safety Advisory Committee (CISAC) by the Commission in relation to advice sought by the Minister for Mines and Petroleum; Industrial Relations.

The Commissioner said COVID-19 considerations and work on the *Prevention of Falls at Workplaces* Code of Practice had been the focus of the most recent CISAC meeting and that the advice in relation to construction induction training would be provided to the next meeting of the Commission.

3.6 Design of Commission Strategic Plan

The Chair presented a fully designed version of the Commission Strategic Plan 2019 to 2021 and sought final approval of the plan and of the production of 200 printed copies. She thanked the DMIRS Safety Education Branch for their work in producing the design.

Commission members expressed approval of the design. The UnionsWA representative said the plan had only two years of the three it covers remaining and that some errors required correction which she would forward to the Executive Officer. The CCIWA representative noted the plan itself had been in operation since the commencement of the three year period, although it had not been published in an engaging format as it was now.

The Commission **AGREED** to printing and publication of 200 copies of the Commission Strategic Plan 2019 to 2021.

ACTION:

The Chair will liaise directly with the UnionsWA representative (Ms Joy Barrett) regarding corrections required to the Commission's Strategic Plan final design.

3.7 National Assessments Instruments update

The Commissioner presented an update about the review of the Transport and Logistics Industry (TLI) High Risk Work Licence National Assessment Instruments (NAIs), finalised and

endorsed by Safe Work Australia members and approved by the WorkSafe Western Australia Commissioner as required by the Occupational Safety and Health Regulations 1996.

The Commissioner said that Safe Work Australia had advised that a project to revise the remaining 16 NAIs will commence in late February or early March 2020. The project is expected to take up to 18 months.

Safe Work Australia members have been asked to nominate participants for the Technical Working Groups (TWGs) which will review these NAIs. To ensure adequate consultation occurs, Commission members were asked to provide a list of key stakeholders they would like to be represented on the respective TWGs, which were technical in nature.

The Commissioner requested nominations be forwarded to him by 8 May 2020.

The Commission **NOTED** the nomination request and update.

3.8 **WHS Bill and Regulations Consultation update**

Mr Ian Munns provided a verbal update on progress of the WHS Bill. He advised that it is still with the Legislative Council, with the regulation feedback process taking longer than expected. He expected the committee to report soon, and expected the regulations report would be provided to the Minister shortly.

The CCIWA representative asked about a previous request made for a comparison report on the model laws and those in the WHS Bill. Mr Munns said work was in progress on the request and had been delayed due to other work priorities.

The Commission **NOTED** the update.

4 **STANDING ITEMS**

4.1 **Commission newsletter – potential topics for next edition.**

Commission members suggested:

- Drawing attention to the Safe Work Australia COVID-19 guidance material
- Highlighting working from home issues and advice available
- Highlighting that the *Occupational Diving in Western Australia* Code of Practice was out for public consultation until August 2020.

The Commission members **AGREED** to the suggestions for topics in the next Commission newsletter.

ACTION:

The Executive Officer to liaise with the DMIRS Safety Education team regarding inclusion of the three new potential topics in the next Commission newsletter. This will be dependent on whether the topics have already been addressed in other publications.

REPORTS

5.1 Legislative Advisory Committee (LAC) – 8 April 2020 meeting

The Chair provided an update regarding the LAC meeting held on 8 April 2020.

She advised a completed draft of the *Violence and Aggression at Work* Code of Practice would be ready for review before the next LAC meeting; that the review process for the *Bullying and Harassment at Work* Code of Practice had commenced; and the new *Occupational Diving in Western Australia* Code of Practice had now gone out for public consultation until August 2020.

The Commission **NOTED** the LAC report and verbal update by the Chair.

5.2 Construction Industry Safety Advisory Committee (CISAC) – 21 April 2020 meeting

The Commissioner provided an update on the work of CISAC and highlighted that after initial concerns about the COVID-19 shutdowns, positive initiatives had been undertaken by CISAC members to advance the agenda items forwarded by the Commission.

The Commissioner said the meeting focussed on two key issues – COVID-19 and the *Prevention of Falls at Workplaces* Code of Practice.

The Commission **NOTED** the update.

5.3 Mining Industry Advisory Committee (MIAC) communique – 8 April 2020 meeting

MIAC Chair, Ms Christina Folley, presented a summary of the 8 April 2020 meeting.

The meeting invested a significant amount of time on COVID-19 and the impact on fly-in fly-out workers. MIAC members were advised of the appointment of a COVID-19 Resources Mental Health and Wellbeing Coordinator, who will coordinate information obtained from mining operators regarding rosters, fatigue, mental health and well-being.

MIAC discussed improving the distribution of information to contractors, with a small working group established to develop a communication strategy in relation to broader distribution of the resources safety news alerts.

Expert member Dr Matthew Davies drew attention to the Human Organisational Factors website, which is well presented, but suggested any feedback received would be useful.

The Commission **NOTED** the update.

5.4 WorkCover report

Mr Chris White advised there had been no claims for directly contracting virus from work-related activity, although he was less sure of the consequential type claims, such as psychological issues in relation to COVID-19. There were no additional silicosis claims. Mr White said the impact of COVID-19 had delayed the progress of drafting of the new legislation, although work is progressing on the consultation draft.

The Commissioner asked if the Department had any consultation with health care sector agencies in relation to health care workers who had tested positive for COVID-19. Mr Munns said the Department had not received any information, and to his knowledge health care workers who have tested positive had contracted the virus through another transmission vector rather than through work.

The Commission **NOTED** the report.

5.5 Regulatory Activity Reports – March 2020

The Commission **NOTED** the Regulatory Activity Report to 31 March 2020.

5.6 Fatalities and significant incidents

The Commissioner advised there had been 12 confirmed work-related traumatic injury fatalities notified to DMIRS for the 2019–20 financial year (as at 30 April 2020), falling within the Department's recording guidelines.

The Commissioner reported on two recent fatal workplace incidents, one a 49-year-old worker whose femoral artery was accidentally severed by a knife and a 25-year-old who died after falling from the roof of a 12-metre tall shed. A co-worker of the 25-year old also in his early twenties also fell from the roof and is in a critical condition.

The Commission **NOTED** the fatalities and significant incidents report.

5.7 Exemption certificates

There were two exemption certificates granted since the previous meeting and these were considered to be standard.

The Commission **NOTED** the exemption certificates.

6 OTHER BUSINESS

6.1 Draft letter sent to The Hon. Rita Saffioti, MLA Minister for Transport and Planning

The Chair presented a draft letter addressed to the Hon. Rita Saffioti, MLA, Minister for Transport, for Commission members to review out-of-session.

At its 1 April 2020 meeting, the Commission agreed to prepare a letter to the Minister reframing a question relating to a Vehicle Standard under Australian Design Rule 42/04 – General Safety Regulation 2005. The UnionsWA representative and the Chair worked together to prepare the letter out-of-session. It seeks a more detailed response in relation to ADR42/04 General Safety Regulation 2005, which governs the location of exhaust systems on all types of vehicles made or imported into Australia.

ACTION:

The Chair to distribute a draft letter to the Minister Transport regarding a Vehicle Standard under Australian Design Rule 42/04, to Commission members for out-of-session approval.

7 CLOSE AND NEXT MEETING

There being no further business, the Chair declared the meeting closed at 10.30am. The next meeting will be held on 3 June 2020.

**MINUTES OF MEETING NO: 393
OF THE
COMMISSION FOR OCCUPATIONAL SAFETY AND HEALTH
HELD ON 1 APRIL 2020**

ENDORSED AS A TRUE AND ACCURATE RECORD OF THE MEETING

Stephanie Mayman

Chair

Date