



**Memorandum of Understanding
Victorian WorkCover Authority and
Department of Primary Industries**



Victorian WorkCover
Authority

PARTIES

Victorian WorkCover Authority ABN 90 296 467 627 ("WorkCover"), the statutory authority responsible for administering various legislation including but not limited to the Occupational Health and Safety Act 1985, the Dangerous Goods Act 1985, the Equipment (Public Safety) Act 1994, the Road Transport (Dangerous Goods) Act 1995, the Accident Compensation Act 1985, the Accident Compensation (WorkCover Insurance) Act 1993 and the Workers Compensation Act 1958, whose objective is to reduce the incidence and severity of work-related injury, disease and death

AND

Department of Primary Industries ABN 90 719 052 204 ("DPI"), the statutory authority responsible for administering various legislation including but not limited to the Pipeline Act 1967, the Petroleum (Submerged Lands) Act 1982, the Mineral Resources Development Act 1990, The Extractive Industries Development Act 1995, the Petroleum Act 1998, the Occupational Health and Safety Act 1985 in the onshore petroleum, mineral mines, and the extractive industries, the Dangerous Goods Act 1985 in the mineral mines and the extractive industries

1. PURPOSE

- 1.1 This Memorandum of Understanding (MOU) sets out the common understanding between the parties as a voluntary statement of intent and contains the serious commitment of both parties at the time the MOU is signed and for the duration of the MOU. The MOU is not intended to create legally enforceable obligations between the parties.

2. TERM

- 2.1 This MOU is effective from 1 August 2003 and continues until the earlier of:
- (a) 31 December 2006; or
 - (b) 3 months from the date of one party's notice in writing to the other notifying of its intention to withdraw from this MOU;
 - (c) immediately where both parties notify each other in writing of their intention to withdraw from it.

3. OBJECTIVES

- 3.1 WorkCover and the DPI share the following objectives:

- (a) to ensure that as far as possible the same health and safety requirements are imposed on all workplaces in Victoria, and that these requirements are administered in a consistent manner;
- (b) to assist Victorian workplaces achieve best practice levels of health and safety for workers and the public; and
- (c) to ensure the effective co-operation of both parties in the administration of their respective requirements in relation to the matters set out in the Schedules.

4. UNDERTAKINGS

- 4.1 WorkCover and the DPI undertake to give effect to the arrangements and procedures set out in the Schedules.
- 4.2 WorkCover and the DPI undertake to establish and maintain liaison contacts to ensure the effective operation of this MOU. Within 14 days of the signing of this MOU, each party will advise the other of their respective liaison contact to whom any communication about the operation of this MOU may be addressed.
- 4.3 WorkCover and the DPI undertake to provide information from time to time to inform each other's staff of their roles and responsibilities in areas of potential overlap, and any relevant changes to the regulatory instruments overseen by them.
- 4.4 This MOU will be jointly reviewed by the liaison contacts on an annual basis or otherwise as agreed in writing between the parties.

5. PRIVACY

- 5.1 WorkCover and the DPI respectively:
 - (a) assure each other that any Personal or Health Information as defined in the Privacy Legislation disclosed by one to the other in connection with this MOU has been collected in accordance with applicable Privacy Legislation, that the individual to whom the information relates has been aware of the identity of the organisation collecting the information and of the other matters of which the individual is required to be informed under applicable Privacy Legislation, and that the disclosure of the information to, and its use by, the organisation to which it is disclosed is authorised by the individual or by law;
 - (b) agree not to use, disclose, store, transfer or handle Personal Information collected in connection with this MOU except in accordance with applicable Privacy Legislation; and

- (c) to co-operate with any reasonable request of the other relating to the protection of Personal Information or the investigation of a complaint about the handling of Personal Information.

5.2 Privacy Legislation means laws in respect of privacy and the protection of personal and health information including, without limitation, the Information Privacy Act 2000 (Vic), the Health Records Act 2001 (Vic) and the Privacy Act 1988 (Cth).

6 CONFIDENTIAL INFORMATION

- 6.1 With respect to any information supplied by one party to the other in connection with this MOU designated as confidential, each party agrees to:
- (a) protect the confidential information in a reasonable and appropriate manner and in accordance with any applicable professional standards;
 - (b) use and reproduce confidential information only for the purposes set out in this MOU;
 - (c) not disclose or otherwise make available confidential information other than to its personnel who have a need to know the information to give effect to the purposes set out in this MOU.
- 6.2 This paragraph shall not apply to information which is:
- (a) publicly known;
 - (b) already known to the receiving party; or
 - (c) disclosed by either WorkCover of the DPI to a third party without restriction.

7 AMENDMENT, VARIATION OR MODIFICATION

- 7.1 This MOU may be amended, varied or modified by a further MOU in writing duly signed by the parties.
- 7.2 Notwithstanding the above, Schedules to this MOU may be added, amended, varied or modified by the insertion of one or more new schedules duly signed by the parties. Schedules to this MOU may be removed by agreement between the parties, such agreement to be attested by a note to that effect duly signed by the parties and appended to this MOU.

Executed by Victorian WorkCover Authority by
its Chief Executive, Greg Tweedly:


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Dated: 14/8/03

Executed by Department of Primary Industries by
its Executive Director – Minerals & Petroleum, Richard Aldous:


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Dated: 8/9/03

**Memorandum of Understanding Between the
Victorian WorkCover Authority and the
Department of Primary Industries**

SCHEDULE 1

MAJOR HAZARD FACILITIES

DEFINITIONS

- 1.(a) **“Major hazard facility”** means a major hazard facility as defined in the Occupational Health and Safety (Major Hazard Facilities) Regulations 2000.
- (b) **“Major Hazard Facilities Regulations”** means the Occupational Health and Safety (Major Hazard Facilities) Regulations 2000.
- (c) **“Offshore facility”** means an offshore facility which is required to submit a Safety Case to DPI, and which is in a direct dependency relationship with an onshore major hazard facility.
- (d) **“Safety Case”** means a Safety Case as defined in the Major Hazard Facilities Regulations; or
a Safety Case as defined in the Petroleum (Submerged Lands) (Management of Safety on Offshore Facilities) Regulations 1996.
- (e) **“Incident”** means an incident defined in Regulation 7 of the Occupational Health and Safety (Incident Notification) Regulations 1997.

PRINCIPLES

2. The following general principles will apply in relation to WorkCover and DPI activities in major hazard facilities –
- (a) WorkCover and the DPI will share information on major hazard facilities for which both parties have a direct regulatory responsibility.
- (b) WorkCover and the DPI will collaborate to set and achieve strategic objectives for safety at major hazard facilities.
- (c) WorkCover and the DPI may jointly conduct audits and inspections of major hazard facilities for which both parties have a direct regulatory responsibility with the objective that, as far as practicable, there is no duplication or overlap of agency inspections and audits of major hazard facilities.
- (d) Where it is necessary for an agency to conduct an urgent audit or investigation under its legislation of an incident in a major hazard facility for which both parties have a direct regulatory responsibility, the agency will notify the other agency as soon as practicable of the action being taken.

- (e) WorkCover and the DPI will jointly assess relevant elements of the Safety Cases of major hazard facilities for which both parties have a direct regulatory responsibility. In assessing the Safety Case each agency will take full account of the views of the other so that a joint decision can be reached.
- (f) Unless agreed that one Safety Case may be produced to meet the requirements of both agencies, where there is a dependency relationship between the offshore facility and a major hazard facility, separate Safety Cases will be produced by each facility.
- (g) WorkCover and the DPI will collaborate on new major hazard facility development proposals with the objective of avoiding duplication in Safety Cases to meet the requirements of both jurisdictions.
- (h) In carrying out their responsibilities in relation to major hazard facilities, each agency will have regard to the interests of the other, and will consult the other agency if it is proposing to take any action that will have an impact on the interests of the other agency.

JURISDICTION

- 3.(a) **WorkCover** administers the Occupational Health and Safety (Major Hazard Facilities) Regulations 2000 in relation to major hazard facilities.
- (b) **DPI** administers the Petroleum (Submerged Lands) Act 1967 (Cth) and the Petroleum (Submerged Lands) Act 1982 (Vic) in relation to offshore facilities which may have a dependency relationship with onshore major hazard facilities, and administers the Occupational Health and Safety Act 1985 and Regulations in relation to mineral mines. **This Schedule excludes mines that are major hazard facilities.**

ARRANGEMENTS

- 4. To give effect to the principles outlined above –

Contacts

Both Agencies

- (a) The primary contact persons for all matters covered in this Schedule will be –
 - for WorkCover, the Director of the Major Hazards Division
 - for the DPI, the Manager, Minerals and Petroleum
- (b) Both agencies will maintain and exchange up to date lists of operational contact persons for matters covered in this Schedule, including contact persons for sites, for incident response, for policy and MoU administration matters.

Cooperation on New Major Hazard Facilities

WorkCover

- (c) WorkCover will advise the DPI within 10 working days of a new or potential major hazard facility that:-
 - i) has been notified to WorkCover under the Major Hazard Facilities Regulations;
 - ii) or has come to WorkCover's attention by some other means;
 and provide other information about the facility as agreed.
- (d) WorkCover will make available to DPI a list (as updated from time to time) of all major hazard facilities, together with other relevant information as agreed.

DPI

- (e) DPI will inform WorkCover within 20 working days of receiving advice of a new or potential major hazard facility whether it has a direct regulatory responsibility in relation to that facility and the extent of its interest in that facility and the extent of its desired involvement with WorkCover in relation to that facility.
- (f) Where DPI believes that a facility with over 10% of the threshold quantity but less than the threshold quantity of Major Hazard Facilities Regulations Schedule 1 materials should be seriously considered for determination to be a major hazard facility, the DPI will provide WorkCover with information in its possession that may assist WorkCover to form an opinion as to whether the facility should be determined to be a major hazard facility.

Both Agencies

- (g) WorkCover and the DPI will consult, share information and cooperate on new major hazard facility development proposals that agencies become aware of. The agencies:-
 - i) will cooperate to encourage & assist proponents to develop and submit integrated safety cases and safety management systems that address jurisdictional requirements of both agencies;
 - ii) may cooperate to encourage integration of safety cases and safety management systems at existing major hazard facilities or offshore facilities.

Cooperation on Registered and Licensed Major Hazard Facilities

Both Agencies

- (h) WorkCover will consult DPI in preparation of post-licence oversight plans for licensed major hazard facilities of interest to both agencies. DPI will be invited to take part in audits, inspections or review work as part of post-licence oversight of these licensed major hazard facilities.
- (i) Where the DPI has indicated that it has an interest in a registered or licensed major hazard facility, each agency will invite the other to participate in any audits and inspections it undertakes in relation to that facility for matters of mutual interest, or where one agency can assist the other.
- (j) Agencies will meet periodically as agreed to undertake strategic planning, set objectives, and review safety performance of:-

- i) Major hazard facility industry sectors; and
- ii) Specific major hazard facilities as may become necessary;

and agencies may cooperate on activities intended to implement or achieve joint planned objectives for MHF industry sectors or specific MHFs.

Cooperation on Safety Case Assessment

Both Agencies

- (k) Where the DPI has advised WorkCover that it has an interest in relation to a major hazard facility, WorkCover will invite the DPI to participate in the team undertaking the assessment of the facility's Safety Case. The DPI will make a person available to participate in the assessment team in relation to the review of the Safety Case (or portions of the Safety Case) and/or provision of technical and practical advice and/or inspections and audits. The process for assessing the Safety Case will include assessment by the DPI of compliance with the legislation it administers.
- (l) For each major hazard facility for which both agencies have an interest, WorkCover will establish a Safety Case assessment project plan and WorkCover and DPI will consult on and agree the scope of work of the DPI team member/s for that Safety Case assessment.

Incidents, Investigations and Prosecutions

Both Agencies

- (m) Within seven days of becoming aware of it, each agency will provide information to the other agency on any incident, explosion or major fire at any major hazard facility or offshore facility that is of interest to both agencies.
- (n) Where agreed as appropriate, WorkCover and the DPI will conduct joint investigations of accidents and incidents. In any case, agencies will exchange information on the investigation of accidents and incidents at facilities for which both agencies have an interest, including information on the outcome of investigations and any potential implications for safety at other facilities.
- (o) Prior to commencing a prosecution of a major hazard facility for which both agencies have an interest, each agency will consult with the other agency via the primary contact person. Where both agencies agree that it is appropriate, joint prosecutions will be undertaken.
- (p) WorkCover may periodically analyse MHF incident trends and patterns, and make this information available to DPI. Agencies may cooperate on preventative activities in response to emerging incident trends for MHF industry sectors or specific MHFs.

Communication and Administration

Both Agencies

- (q) WorkCover and the DPI will meet formally at least quarterly to share information and discuss strategic and operational issues on major hazards facilities for which both agencies have an interest. The agenda of formal meetings will include:-

- strategic and policy issues relevant to MHF safety
- significant operational matters raised with MHFs or involving agency cooperation
- new or proposed MHFs
- incidents, prosecutions & emerging incident trends
- operational planning (upcoming audits, inspections, training etc.)

The formal meetings will be attended by, as a minimum, the nominated primary contact persons or their delegates. The meetings will be chaired alternately by WorkCover and the DPI. However, the exchange of information will not be limited to these meetings.

- (r) WorkCover and the DPI will consult in the preparation of any codes of practice, guidance notes, protocols or similar material that is developed to assist major hazard facilities for which both agencies have a direct regulatory responsibility to meet their legislative obligations, or to ensure the effective operation of this Schedule.
- (s) Each agency will notify the other as far in advance as is practicable of any relevant training courses it conducts. Where the other agency is interested in participating in a course, the agency conducting the course will make at least one place available for an appropriate person from the other agency.
- (t) Where an issue arises between the two agencies in relation to any matter covered in this Schedule, the primary contact persons will meet and attempt to resolve the issue. Where the primary contact persons jointly come to the view that they are unable to resolve the issue, the Chief Executive of WorkCover and the Executive Director of the DPI may meet in order to resolve the issue.
- (u) In carrying out its responsibilities in relation to freedom of information, each agency will have regard to the interests of the other and will consult the other agency if it is proposing to take any action that will have an impact on the interests of the other agency.

IN WITNESS TO THE ABOVE UNDERSTANDINGS, this Schedule is signed for and on behalf of the parties on the 8th day of September 2003.



on behalf of the
Victorian WorkCover Authority

GREG TWEEDLY
Chief Executive

Date: 14 August 2003



on behalf of the
Department of Primary Industries

RICHARD ALDOUS
Executive Director – Minerals and
Petroleum

Date: 8/9/03

**Memorandum of Understanding Between the
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SCHEDULE 2

EXTRACTIVE INDUSTRIES

This Schedule covers the legislation under which, and the issues in relation to which the Victorian WorkCover Authority and the Department of Primary Industries respectively will respond for health and safety purposes in Victorian quarries

DEFINITIONS

1. **'respond'** means that the relevant party/parties will respond in accordance with documented organisational response procedures
2. **'notify'** means that both parties will contact and inform the other in accordance with agreed documented procedures.
3. **'notified to the Victorian WorkCover Authority'** means providing all the information required by the Authority, in the required format and within the required time frame.
4. **'serious incident'** means a notifiable incident as defined by the *Occupational Health and Safety (Incident Notification) Regulations 1997*.
5. **'stone'** means:
 - (a) Sandstone, freestone or other building stone; or
 - (b) Basalt, granite, limestone or rock of any kind ordinarily used for building, manufacturing, road making, or construction purposes
 - (c) Quartz (other than quartz crystals), or
 - (d) slate or gravel; or
 - (e) clay (other than fine clay, bentonite or kaolin); or
 - (f) sand, earth or soil; or
 - (g) other similar materials.
6. **'quarrying operations'** means all operations up to and including all the pit area, workshops, administration buildings, crushers, screen houses including conveyors and product stockpiles.
7. **'manufacturing operations'** means all non-quarrying work where previously extracted stone that has been washed, crushed and screened is subsequently processed into other products. This includes all plant and facilities involved in the making of articles other than product from quarrying operations. Manufacturing operations cover the making of bricks, cement, concrete and lime plants, and the manufacture of asphalt.

JURISDICTION

8. Through administration of the *Occupational Health and Safety Act 1985*, the *Equipment (Public Safety) Act 1994*, and their regulations, the Victorian WorkCover Authority referred hereunder as WorkSafe Victoria (operating arm of WorkCover) has jurisdiction over and will respond to all manufacturing operations, and their associated administration buildings and above ground workshops. Generally, WorkSafe Victoria staff will be responsible for carrying out normal field work and other work necessary in connection with the aforementioned legislation (eg, responding to issues concerning the manufacturing plant and buildings, amenities, systems of work, maintenance, training, etc.). Where there is potential overlap or ambiguity with regard to jurisdictional responsibilities, the agency selected with responsibility will be determined by the predominant activity being undertaken at the site. In this situation, the lead agency would be expected to consult with the other party on any actions taken.
9. WorkSafe Victoria, through administration of the *Dangerous Goods Act 1985* and the *Dangerous Goods (Road Transport) Act 1995* and their regulations (except the *Dangerous Goods (Explosives) Regulations 2000*)¹, has jurisdiction over and will respond, subject to *Items 10 and 11* below, to workplace issues at quarries (in both quarrying and manufacturing operations) involving:
 - storage and handling of dangerous goods;
 - transportation of dangerous goods; and
 - transfers of dangerous goods between operations in quarries.
10. The Department of Primary Industries through administration of the *Extractive Industries Development Act 1995* and its regulations, and the *DG (Explosives) Regulations 2000*, has jurisdiction over and will respond to issues in quarries (in both quarrying and manufacturing operations) involving:
 - storage and handling of explosives; and
 - transportation of explosives (within quarries).
 - Manufacture of explosives (for example, mixing ANFO, etc).
11. The Department of Primary Industries involvement in quarrying sites under the *Extractive Industries Development Act 1995* and the *Occupational Health and Safety Act 1985* will cover all quarrying operations. Department of Primary Industries staff will be responsible for carrying out their normal field work in connection with the aforementioned Acts (eg, responding to issues concerning crushing plants, amenities, site offices, workshops, etc). Where there is potential overlap or ambiguity with regard to jurisdictional responsibilities, the agency selected with responsibility will be determined by the predominant activity being undertaken at the site. In this situation, the lead agency would be expected to consult with the other party on any actions taken.

ARRANGEMENTS

12. The following arrangements will apply in relation to WorkSafe Victoria and the Department of Primary Industries activities in relation to quarries:–

¹ Amendments made to the *Dangerous Goods Act 1985* allow appointed DPI inspectors to administer the *DG (Explosives) Regulations 2000* in all mines and quarries on behalf of WorkCover.

- (a) All field staff whose work relates to health and safety in quarries will have a copy of this Schedule or have access to it.
 - (b) Instructions to staff for the implementation of this Schedule will be developed, in consultation, by both parties. Each party will have a copy of the other's instructions.
 - (c) WorkSafe Victoria and the Department of Primary Industries publications will be circulated and used by both organisations where relevant.
 - (d) WorkSafe Victoria and the Department of Primary Industries will arrange for appropriate staff to participate in relevant training conducted by either organisation.
 - (e) Any reports resulting from investigations of incidents covered by this Schedule will be made available to both parties (subject to legislated restrictions on disclosure of information).
13. In an emergency, where there is any doubt over jurisdiction when contacted by a quarry operator or employee in relation to an incident, WorkSafe Victoria and the Department of Primary Industries staff will respond, and notify the other party's emergency contact number immediately.
14. To ensure that occupational and public health and safety standards in quarries are consistent with those in workplaces throughout Victoria, the Department of Primary Industries will impose, monitor and ensure work authority holders' compliance with the *Occupational Health and Safety Act 1985*, *Equipment (Public Safety) Act 1994*, *Dangerous Goods (Road Transport) Act 1995* and *Dangerous Goods Act 1985* through the appropriate application of the *Extractive Industries Development Act 1995*.
15. Serious incidents are to be notified to the Department of Primary Industries. The information notified must fulfil the requirements of the *Occupational Health and Safety (Incident Notification) Regulations 1997*. Copies of information received will be provided to WorkSafe Victoria. This requirement does not reduce any notification requirements under the *Extractive Industries Development Act 1995*.
16. WorkSafe Victoria and the Department of Primary Industries will jointly investigate fatal incidents that occur anywhere in a quarrying operation or manufacturing operation. However, the organisation with jurisdiction will take the lead role in the investigation.
17. Serious incidents that occur anywhere in a quarrying operation or manufacturing operation may be jointly investigated by WorkSafe Victoria and Department of Primary Industries, and will be dealt with on a case-by-case basis.
18. Prosecutions for offences involving the jurisdiction of only (or predominantly) one organisation will be the responsibility of that organisation. Where investigations disclose evidence that offences involving the jurisdictions of both organisations have arisen from the same set of facts and circumstances, WorkSafe Victoria and the Department of Primary Industries will consult with a view to determining the most appropriate legislation to be used for prosecution. Both the WorkSafe Victoria and the Department of Primary Industries retain their right to prosecute alleged offenders under their respective legislation. Both parties will consult if a prosecution is proposed in relation to an incident at a quarrying operation or a manufacturing operation.

19. WorkSafe Victoria staff will only carry out fieldwork on quarrying operations sites as described in this Schedule.
20. WorkSafe Victoria will provide support to the Department of Primary Industries with training for field staff and publications.
21. To ensure consistency across all Victorian workplaces, the Department of Primary Industries has adopted WorkSafe Victoria's Compliance and Enforcement Policy approach to the enforcement of the OHSA regulatory framework in quarries.
22. The primary contact persons for all matters covered in this Schedule will be –
 - For WorkSafe Victoria, the Director, Construction and Utilities Program
 - For Department of Primary Industries, the Manager, Minerals and Petroleum Regulation
23. Both agencies will maintain and exchange up-to-date lists of operational contact persons for matters covered in this Schedule, including contact persons for sites, for incident response, for policy and MoU administrative matters.

IN WITNESS TO THE ABOVE UNDERSTANDINGS, this Schedule is signed for and on behalf of the parties on the eight day of September 2003.



on behalf of the
Victorian WorkCover Authority

GREG TWEEDLY
Chief Executive



on behalf of the
Department of Primary Industries

RICHARD ALDOUS
Executive Director – Minerals and
Petroleum

**Memorandum of Understanding Between the
Victorian WorkCover Authority and the
Department of Primary Industries**

SCHEDULE 3

TOURIST MINES

This Schedule covers the legislation under which, and the issues in relation to which the Victorian WorkCover Authority and the Department of Primary Industries respectively will respond for health and safety purposes in Victorian Tourist Mines.

DEFINITIONS

1. **'respond'** means that the relevant party/parties will respond in accordance with documented organisational response procedures.
2. **'notify'** means that both parties will contact and inform the other in accordance with agreed documented procedures.
3. **'notified to the Victorian WorkCover Authority'** means providing all the information required by the Authority, in the required format and within the required time frame.
4. **'serious incident'** means a notifiable incident as defined by the *Occupational Health and Safety (Incident Notification) Regulations 1997*.
5. **'tourist mine'** means a mine, part of a mine or any other location in which the principal activities conducted are activities promoting interest in the practice and history of prospecting or mining.
6. **'underground operations'** means all operations carried out underground up to and including any winder or winch as defined in the *Occupational Health and Safety (Mines) Regulations 2002* or any subsequent regulations, and any infrastructure associated with the access to, and egress from underground workings.
7. **'Surface operations'** means all non-underground work.

JURISDICTION

8. Through administration of the *Occupational Health and Safety Act 1985*, the *Equipment (Public Safety) Act 1994*, and their regulations, the Victorian WorkCover Authority referred hereunder as WorkSafe Victoria (operating arm of WorkCover) has jurisdiction over and will respond, subject to *Item 9* below, to issues at tourist mines concerning:
- The health, safety and welfare of persons in Victorian workplaces as specified in Section 6 of the *Occupational Health and Safety Act 1985*.
 - the design, construction, manufacture, installation, erection, alteration, maintenance, repair and use of equipment prescribed under the *Equipment (Public Safety) Act 1994* in non-workplaces in Victoria.

9. WorkSafe Victoria's involvement in tourist mines under the *Occupational Health and Safety Act 1985* and the *Equipment (Public Safety) Act 1994* will be limited to all surface operations.

Generally, WorkSafe staff will be responsible for carrying out normal field work and other work necessary in connection with the aforementioned legislation (eg, responding to issues concerning the surface operations and buildings, amenities, consultative arrangements, systems of work, maintenance, training, etc.).

10. WorkSafe Victoria, through administration of the *Dangerous Goods Act 1985* and the *Dangerous Goods (Road Transport) Act 1995* and their regulations (except the *Dangerous Goods (Explosives) Regulations 2000*) (see *item 11*), has jurisdiction over and will respond, subject to *Item 12* below, to workplace issues at tourist mines (in both underground and surface operations) involving:
- storage and handling of dangerous goods;
 - transportation of dangerous goods; and
 - transfers of dangerous goods between worksites.

11. The Department of Primary Industries through administration of the *Mineral Resources Development Act 1990* and its regulations, and the *Dangerous Goods (Explosives) Regulations 2000*, will respond to issues in tourist mines involving:
- storage and handling of explosives underground and
 - transportation of explosives underground.

12. The Department of Primary Industries' involvement in tourist mines will cover all underground operations, subject to *item 10*. The Department of Primary Industries staff will be responsible for carrying out their normal field work in connection with the *Mineral Resources Development Act 1990* and the *Occupational Health and Safety Act 1985*.

ARRANGEMENTS

13. The following arrangements will apply in relation to WorkSafe Victoria and the Department of Primary Industries activities in relation to tourist mines –

- (a) All field staff whose work relates to health and safety in tourist mines will have a copy of this Schedule or have access to it.
 - (b) Instructions to staff for the implementation of this Schedule will be developed, in consultation, by both parties. Each party will have a copy of the other's instructions.
 - (c) Relevant WorkSafe Victoria and Department of Primary Industries publications will be circulated and used by both organisations where relevant.
 - (d) WorkSafe Victoria and the Department of Primary Industries will arrange for appropriate staff to participate in relevant training conducted by either organisation.
 - (e) Any reports resulting from investigations of incidents covered by this Schedule will be made available to both parties (subject to legislated restrictions on disclosure of information).
14. In an emergency, where there is any doubt over jurisdiction when contacted by a tourist mine operator or employee in relation to an incident, WorkSafe Victoria and the Department of Primary Industries will respond and notify the other party's emergency contact number immediately.
15. Serious workplace incidents are to be notified to WorkSafe Victoria on the Incident Notification Hot Line - 132 360 followed by written records of these incidents within 48 hours of the initial notification. The information notified must fulfil the requirements of the *Occupational Health and Safety (Incident Notification) Regulations 1997*. Copies of information received will be provided to the Department of Primary Industries. This requirement does not reduce any notification requirements under the *Mineral Resources Development Act 1990*.
16. Fatal incidents that occur anywhere in a tourist mine will be jointly investigated by WorkSafe Victoria and the Department of Primary Industries. However, the organisation with responsibility will take the lead role in the investigation.
17. Serious incidents that occur anywhere in a tourist mine may be jointly investigated by WorkSafe Victoria and the Department of Primary Industries, and will be dealt with on a case-by-case basis.
20. Prosecutions for offences involving the jurisdiction of only (or predominantly) one organisation will be the responsibility of that organisation. Where investigations disclose evidence that offences involving the jurisdictions of both organisations have arisen from the same set of facts and circumstances, WorkSafe Victoria and the Department of Primary Industries will consult with a view to determining the most appropriate legislation to be used for prosecution. Both WorkSafe Victoria and the Department of Primary Industries retain their right to prosecute alleged offenders under their respective legislation.
21. WorkSafe Victoria and Department of Primary Industries staff will only carry out fieldwork on tourist mines as described in this Schedule.

- 22. WorkSafe inspectors will consult with Department of Primary Industries staff prior to attending a tourist mine for the purposes of dealing with issues related to the establishment of designated work groups and health and safety representatives and committees.

IN WITNESS TO THE ABOVE UNDERSTANDINGS, this Schedule is signed for and on behalf of the parties on the 9th day of September 2003.

Greg Tweedly

Richard Aldous

on behalf of the
Victorian WorkCover Authority

on behalf of the
Department of Primary Industries

GREG TWEEDLY
Chief Executive

RICHARD ALDOUS
Executive Director – Minerals and
Petroleum

Date: 14 August 2003

Date: 8/9/03



**Memorandum of Understanding Between the
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Department of Primary Industries**

SCHEDULE 4

MINES

This Schedule covers the legislation under which, and the issues in relation to which the Victorian WorkCover Authority and the Department of Primary Industries respectively will respond for health and safety purposes in Victorian mines.

DEFINITIONS

1. **'respond'** means that the relevant party/parties will respond in accordance with documented organisational response procedures.
2. **'notify'** means that both parties will contact and inform the other in accordance with agreed documented procedures.
3. **'notified to the Victorian WorkCover Authority'** means providing all the information required by the Authority, in the required format and within the required time frame.
4. **'serious incident'** means a notifiable incident as defined by the *Occupational Health and Safety (Incident Notification) Regulations 1997*.
5. **'mine'** means:
 - (a) a workplace at which work is being done under a mining licence granted under the *Mineral Resources Development Act 1990*;
 - (b) a workplace at which exploration within the meaning of the *Mineral Resources Development Act 1990*, in the form of-
 - (i) underground work of any kind; or
 - (ii) drilling from the surface for coal-bed methane-

is being done under an exploration licence granted under the *Mineral Resources Development Act 1990*; or
 - (c) in relation to a tourist mine within the meaning of the *Mineral Resources Development Act 1990*, those parts of the mine that are underground and all infrastructure and plant associated with the underground workings.
6. **'non - mining operations'** means the power generating facilities on a brown coal mine beyond the coal bunkers.

JURISDICTION

7. Through administration of the *Occupational Health and Safety Act 1985*, the *Equipment (Public Safety) Act 1994*, and their regulations, the Victorian WorkCover Authority referred hereunder as WorkSafe Victoria (operating arm of WorkCover) has jurisdiction over and will respond to all non-mining operations, and their associated administration buildings and workshops. Generally, WorkSafe Victoria staff will be responsible for carrying out normal field work and other work necessary in connection with the aforementioned legislation (eg, responding to issues concerning the manufacturing plant and buildings, amenities, systems of work, maintenance, training, etc.). Where there is potential overlap or ambiguity with regard to jurisdictional responsibilities, the agency selected with responsibility will be determined by the predominant activity being undertaken at the site. In this situation, the lead agency would be expected to consult with the other party on any actions taken.

8. WorkSafe Victoria, through administration of the *Dangerous Goods Act 1985* and the *Dangerous Goods (Road Transport) Act 1995* and their regulations (except the *Dangerous Goods (Explosives) Regulations 2000*)¹, has jurisdiction over and will respond, subject to *Items 9 and 10* below, to workplace issues at mines (in both mining and non mining operations) involving:
 - storage and handling of dangerous goods;
 - transportation of dangerous goods; and
 - transfers of dangerous goods between operations in mines.

9. The Department of Primary Industries through administration of the *Mineral Resources Development Act 1995* and its regulations, and the *Dangerous Goods (Explosives) Regulations 2000*, has jurisdiction over and will respond to issues in mines (in both mining and non-mining operations) involving:
 - storage and handling of explosives; and
 - transportation of explosives (within mines).
 - Manufacture of explosives (for example, mixing ANFO, etc).

10. The Department of Primary Industries involvement in mining sites under the *Mineral Resources Development Act 1995* and the *Occupational Health and Safety Act 1985* will cover all operations other than non-mining operations. Department of Primary Industries staff will be responsible for carrying out their normal field work in connection with the aforementioned Acts (eg, responding to issues concerning crushing plants, amenities, site offices, workshops, etc). Where there is potential overlap or ambiguity with regard to jurisdictional responsibilities, the agency selected with responsibility will be determined by the predominant activity being undertaken at the site. In this situation, the lead agency would be expected to consult with the other party on any actions taken.

¹ Amendments made to the Dangerous Goods Act 1985 allow appointed DNRE inspectors to administer the DG (Explosives) Regulations 2000 in all mines and quarries on behalf of WorkCover.

ARRANGEMENTS

11. The following arrangements will apply in relation to WorkSafe Victoria and the Department of Primary Industries activities in relation to mines:-
 - (a) All field staff whose work relates to health and safety in mines will have a copy of this Schedule or have access to it.
 - (b) Instructions to staff for the implementation of this Schedule will be developed, in consultation, by both parties. Each party will have a copy of the other's instructions.
 - (c) WorkSafe Victoria and the Department of Primary Industries publications will be circulated and used by both organisations where relevant.
 - (d) WorkSafe Victoria and the Department of Primary Industries will arrange for appropriate staff to participate in relevant training conducted by either organisation.
 - (e) Any reports resulting from investigations of incidents covered by this Schedule will be made available to both parties (subject to legislated restrictions on disclosure of information).
12. In an emergency, where there is any doubt over jurisdiction when contacted by a mine operator or employee in relation to an incident, WorkSafe Victoria and the Department of Primary Industries staff will respond, and notify the other party's emergency contact number immediately.
13. To ensure that occupational and public health and safety standards in mines are consistent with those in workplaces throughout Victoria, the Department of Primary Industries will impose, monitor and ensure mining licence holders' compliance with the *Occupational Health and Safety Act 1985*, *Equipment (Public Safety) Act 1994*, *Dangerous Goods (Road Transport) Act 1995* and *Dangerous Goods Act 1985* through the appropriate application of the *Mineral Resources Development Act 1990*.
14. Serious incidents are to be notified to the Department of Primary Industries. The information notified must fulfil the requirements of the *Occupational Health and Safety (Incident Notification) Regulations 1997*. Copies of information received will be provided to WorkSafe Victoria. This requirement does not reduce any notification requirements under the *Mineral Resources Development Act 1990*.
15. WorkSafe Victoria and the Department of Primary Industries will jointly investigate fatal incidents that occur anywhere in a mine. However, the organisation with jurisdiction will take the lead role in the investigation.
16. Serious incidents that occur anywhere in a mine may be jointly investigated by WorkSafe Victoria and the Department of Primary Industries, and will be dealt with on a case-by-

case basis.

17. Prosecutions for offences involving the jurisdiction of only (or predominantly) one organisation will be the responsibility of that organisation. Where investigations disclose evidence that offences involving the jurisdictions of both organisations have arisen from the same set of facts and circumstances, WorkSafe Victoria and the Department of Primary Industries will consult with a view to determining the most appropriate legislation to be used for prosecution. Both WorkSafe Victoria and the Department of Primary Industries retain their right to prosecute alleged offenders under their respective legislation. Both parties will consult if a prosecution is proposed in relation to an incident at a mining operation.
18. WorkSafe Victoria staff will only carry out fieldwork on mining operations sites as described in this Schedule.
19. WorkSafe Victoria will provide support to the Department of Primary Industries with training for inspectors and publications.
20. To ensure consistency across all Victorian workplaces, the Department of Primary Industries has adopted WorkSafe Victoria's Compliance and Enforcement Policy approach to the enforcement of the OHSA regulatory framework in mines.
21. The primary contact persons for all matters covered in this Schedule will be –
 - For WorkSafe Victoria, the Director, Construction and Utilities Program
 - For Department of Primary Industries, the Manager, Minerals and Petroleum Regulation
23. Both agencies will maintain and exchange up-to-date lists of operational contact persons for matters covered in this Schedule, including contact persons for sites, for incident response, for policy and MoU administrative matters.

IN WITNESS TO THE ABOVE UNDERSTANDINGS, this Schedule is signed for and on behalf of the parties on the _____ day of _____ 2003.



on behalf of the
Victorian WorkCover Authority

GREG TWEEDLY
Chief Executive

Date: 14 August 2003



on behalf of the
Department of Primary Industries

RICHARD ALDOUS
Executive Director – Minerals and
Petroleum

Date: 8/9/03