

Memorandum of Understanding Victorian WorkCover Authority and Department of Primary Industries



PARTIES

Victorian WorkCover Authority ABN 90 296 467 627 ("WorkSafe Victoria"), is the statutory authority responsible for administering the *Occupational Health and Safety Act 2004*, the *Dangerous Goods Act 1985*, the *Equipment (Public Safety) Act 1994*, the *Accident Compensation Act 1985*, the *Accident Compensation (WorkCover Insurance) Act 1993*, the *Workers Compensation Act 1958* and regulations of those Acts, including the *Dangerous Goods (Transport by Road or Rail) Regulations 2008*.

AND

Department of Primary Industries ABN 90 719 052 204 ("DPI"), the authority responsible for administering various legislation including but not limited to the *Geothermal Energy Resources Act 2005*, the *Mineral Resources (Sustainable Development) Act 1990*, the *Greenhouse Gas Geological Sequestration Act 2008*, the *Petroleum Act 1998* and regulations of those Acts.

1. DEFINITIONS

- 1.1 Business Day means a day other than a Saturday, Sunday or public holiday appointed under the *Public Holidays Act 1993 (Vic)* applying to the Melbourne metropolitan area.

2. PURPOSE

- 2.1 This Memorandum of Understanding ("MOU") sets out the common understanding between the parties as a voluntary statement of intent and contains the 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.

3. TERM

- 3.1 This MOU is effective from 1 January 2011 and continues until the earlier of:
- (a) 31 December 2013; 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; or
 - (c) immediately where both parties notify each other in writing of their intention to withdraw from it.

4. OBJECTIVES

- 4.1 WorkSafe Victoria and DPI share the following objectives:
- (a) to assist Victorian earth resources workplaces achieve compliance with health and safety laws for workers and the public and to minimise the impact on the environment;
 - (b) 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 Schedule(s); and

- (c) to assist workplaces and other parties affected by the matters set out in the Schedule(s) to meet the requirements of both parties without any unnecessary duplication of effort.

5. UNDERTAKINGS

WorkSafe Victoria and DPI undertake to give effect to the arrangements and procedures set out in the Schedules.

WorkSafe Victoria and DPI undertake to establish and maintain liaison contacts to ensure the effective operation of this MOU. Within 10 Business 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.

WorkSafe Victoria and 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.

This MOU will be jointly reviewed by the liaison contacts as agreed in writing between the parties.

WorkSafe Victoria and DPI will participate in the Earth Resources Tripartite Safety Forum.

6. PRIVACY

6.1 WorkSafe Victoria and DPI respectively:

- 6.1.1 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 made 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;
- 6.1.2 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
- 6.1.3 Agree 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.

6.2 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 (Commonwealth)*.

7 CONFIDENTIAL INFORMATION

7.1 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, legal advisers, or Minister who have a need to know the information to give effect to the purposes set out in this MOU.
- (d) requested under an Act or by a Court


7.2 Paragraph 6.1 shall not apply to information which is:

- (a) publicly known;
- (b) already known to the receiving party; or
- (c) disclosed by either WorkSafe Victoria or the Department of Primary Industries to a third party without restriction.

8 AMENDMENT, VARIATION OR MODIFICATION

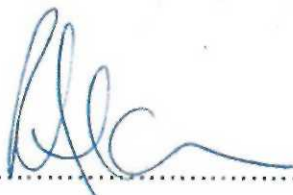
- 8.1 This MOU may be amended, varied or modified by a further MOU in writing duly signed by the parties.
- 8.2 Notwithstanding the above, schedules to this MOU may be added, amended, varied or modified by the insertion of one or more new schedules duly signed by the parties. Schedules to this MOU may 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 for WorkSafe Victoria by
its Chief Executive, Greg Tweedly:**


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Dated: 16/1/11

**Executed for Department of Primary Industries by its
Deputy Secretary, Energy and Earth Resources Group,
Richard Aldous:**


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Dated: 13/1/11

**Memorandum of Understanding
Between the Victorian WorkCover Authority (“WorkSafe Victoria”) and
the Department of Primary Industries (“DPI”)**

**SCHEDULE 1
On-going Arrangements**

1. Working together

1.1 Field Staff Communication

- 1.1.1 All field staff whose work relates to health and safety will have a copy of this Schedule or have access to it.
- 1.1.2 Relevant publications (hard copy and electronic) produced by WorkSafe Victoria and DPI will be circulated and used by both organisations.
- 1.1.3 WorkSafe Victoria and DPI will liaise in regard to arranging for appropriate staff to participate in relevant training conducted by either organisation.

1.2 Overlapping responsibilities

- 1.2.1. Both agencies have objectives in their legislation that dictate responsibility for public safety matters and the use of explosives. WorkSafe Victoria has responsibility for public safety arising from work-related activities.
- 1.2.2. WorkSafe Victoria and DPI will consult on matters where their jurisdictions overlap with the lead agency being the agency with the highest degree of control over the issue. (Note safety aspects of gathering lines under the *Petroleum Act 1998* will also be referred to EnergySafe Victoria (“ESV”).)

Safety related elements	DPI	WorkSafe Victoria
Public safety and amenity	✓ Lead Agency	✓ Support Agency
Public safety (work related)	✓ Support Agency	✓ Lead Agency
Operation design and works approval	✓ Lead Agency	✓ Support Agency
Variations to operation plans and licences	✓ Lead Agency	✓ Support Agency
Well Integrity	✓ Lead Agency	✓ Support Agency
Occupational health and safety	✓ Support Agency	✓ Lead Agency
Explosives	✓ Support Agency	✓ Lead Agency
Blasting impacts (airblast & ground vibration)	✓ Lead Agency	✓ Support Agency
Site rehabilitation planning	✓ Lead Agency	N/A
Site rehabilitation activity	✓ Lead Agency	✓ Support Agency

1.3 Provision of Advice to External Stakeholders

WorkSafe Victoria and DPI will work together to ensure good communication of advice which will assist both agencies to effectively administer their respective legislation and to inform and educate duty holders accordingly.

	DPI	WorkSafe Victoria
Technical advice	<ul style="list-style-type: none"> Sustainable development including design, safe operating standards, approval of work and operations plans, protection of people and site rehabilitation. 	<ul style="list-style-type: none"> Occupational health and safety; Dangerous Goods including explosives licensing.

1.4 Investigations and Enforcement

- 1.4.1 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).
- 1.4.2 Investigations into occupational health and safety matters will be conducted by WorkSafe Victoria.
- 1.4.3 DPI will, where practicable, provide advice and specialist support when requested by WorkSafe Victoria.
- 1.4.4 Prosecutions for offences under legislation administered by WorkSafe Victoria will be the responsibility of WorkSafe Victoria.
- 1.4.5 Prosecutions for offences under legislation administered by DPI will be the responsibility of DPI.
- 1.4.6 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 DPI will consult with a view to determining the most appropriate legislation to be used for enforcement and or prosecution.
- 1.4.7 Both WorkSafe Victoria and DPI retain their right to take enforcement actions and prosecute alleged offenders under their respective legislation.
- 1.4.8 Both WorkSafe Victoria and DPI agree to co-operate in providing information relevant to any investigations and prosecutions and to provide assistance from relevant staff (where permitted by overarching legislation).

1.5 Emergency / crisis response

Both agencies will discharge their duties in accordance with the *Emergency Management Act 1986*. WorkSafe Victoria will request technical assistance from DPI as required.

2. Sharing Information

Exchange of relevant information and records will assist both WorkSafe Victoria and DPI to effectively administer their respective legislation.

2.1 Tenement Numbers and Licensee details

DPI issues a unique identifier (tenement number) for each parcel of land for mining, exploration, quarrying, petroleum and geothermal activities. This tenement number is a key piece of information to aid communication between the two agencies and for WorkSafe Victoria to be able to identify and physically locate each site. The issuing of

tenements is an on-going process and therefore will require on-going communication between the two agencies.

	DPI	WorkSafe Victoria
Tenement number and licensee details report	On a quarterly basis, generate and send electronically to WorkSafe Victoria, a tenement number report(s) of the current tenement numbers and the licensee contact details as agreed. Part A being the full listing of tenements, Part B changes since the last report.	Allocate a coordinator or mailbox to receive and action the report(s) received from DPI accordingly.

2.2 Sharing Intelligence

Inspectors will be in a position to share relevant information about potential identified breaches of the other agency's legislation. Both agencies agree to ensure that such information will be shared. Where the potential breach involves an area of overlapping or inter-related responsibility, Inspectors from both agencies will work together to resolve the matter.

	DPI	WorkSafe Victoria
Intelligence sharing	<p>If a possible breach of WorkSafe Victoria's legislation is identified, the DPI officer will:-</p> <ul style="list-style-type: none"> • Advise the duty holder verbally; • Include their observation in the body of their field report; and • Advise WorkSafe Victoria as soon as possible via the Advisory Service (1800 136 089) 	<p>If a possible breach of DPI's legislation is observed, the WorkSafe Victoria officer will:-</p> <ul style="list-style-type: none"> • Advise the duty holder verbally; • Include their observation in the body of their entry report; and • Advise DPI as soon as possible via the relevant District or Operational Manager

2.3 Records

Copies of recent OHS information pertaining to sites have been provided to WorkSafe Victoria electronically. There is some information located on hard copy files that will remain with DPI. In the future WorkSafe Victoria may wish to view this historical information. The agencies will share access to current information as arranged and agreed through local managers.

	DPI	WorkSafe Victoria
Records	Store relevant files and allow WorkSafe Victoria to access this information upon request.	Inspectors, Investigators, Lawyers and Managers to request access to historical records via the relevant District or Operational Manager.

2.4 Incident Notification

2.4.1 WorkSafe Victoria administers notification requirements under the *Occupational Health and Safety Act 2004*, the *Equipment (Public Safety) Act 1994*, the *Dangerous Goods Act 1985* and their regulations, including the *Dangerous Goods (Transport by Road or Rail) Regulations 2008*.

- 2.4.2 DPI administers the *Petroleum Act 1998*, the *Geothermal Energy Resources Act 2005* and the *Greenhouse Gas Geological Sequestration Act 2008*, which require certain incidents to be notified.

	DPI	WorkSafe Victoria
OHS and DG Incident notification	Advise clients to notify incidents to WorkSafe Victoria through the Incident Notification number 132 360	WorkSafe Victoria jurisdiction – accept notifications
	Forward any written notifications received to WorkSafe Victoria	Record any notifications received from DPI
	Where there is interrelationship – coordinate with WorkSafe Victoria	Coordinate with DPI where interrelationship exists
<i>Petroleum Act 1998; Geothermal Energy Resources Act 2005 and Greenhouse Gas Geological Sequestration Act 2008</i>	Copies of information received to be provided to WorkSafe Victoria	DPI jurisdiction - incidents to be notified to DPI

2.5 Inquiries and Complaints

The following are the arrangements applying to how DPI and WorkSafe Victoria will handle OHS complaints:

	DPI	WorkSafe Victoria
Inquiries and Complaints	Advise clients to report OHS complaints to WorkSafe Victoria through the Advisory Service on 1800 136 089.	WorkSafe Victoria jurisdiction – respond to complaints as necessary.
	Forward any OHS complaints received to WorkSafe Victoria through the Advisory Service on 1800 136 089.	Record OHS complaints received and resolve.
	Where there is interrelationship – coordinate with WorkSafe Victoria.	Coordinate with DPI where interrelationship exists.
		Refer non OHS DPI inquiries and complaints to DPI

2.6 Statistical Reporting

The two agencies agree to work collaboratively in sharing the results of statistical analyses and to minimise any “red-tape” or financial burdens placed on duty holders as a result of the respective responsibilities. Production and workforce data is of interest to WorkSafe Victoria in gauging activity within the industry and therefore inspection requirements.

2.7 Table of Information Exchange

Information (supplier)	Detail	Frequency
List of tenements (DPI)	Type, number, contacts (Gemis)	Quarterly
Operation Plans (DPI → WSV response)	Petroleum Geothermal Greenhouse Gas Geological Sequestration	As received
Applications for Work (DPI)	Tenement Holder & contact details Site address Dates received/authorised Approximate number of workers Description of activities (brief only eg) <ul style="list-style-type: none"> • exploration - surface/u'g; drilling/bulk samples; minimal disturb; etc. • extractives - rock quarry / gravel / sand / dredging; etc • mining – u'g. / open-cut / shallow (depth); etc. 	Monthly
Site operations (DPI)	Tonnes / volume	Annual
Incident Analysis (WSV)	Incidents Workers Hours Frequency & other statistics developed	Six monthly

3. Representation and consultation forums

WorkSafe Victoria and DPI will continue to be represented in consultative forums. The DPI Minister represents both agencies at Ministerial Council level (MCMPR) which is responsible for the National Mine Safety Framework and the Minister for WorkCover represents Victoria on the Workplace Relations Ministerial Council which is responsible for the national harmonisation of occupational health and safety ("OHS") legislation.

	DPI	WorkSafe Victoria
National Mine Safety Framework	Consults and advises with Senior Managers on agenda items, joint policy positions, decisions and actions. At steering committee and working group levels, DPI representatives act in a supporting role.	Minister for WorkCover and Senior Managers contribute to decision making and carry out agreed actions. At steering and working group levels, WorkSafe Victoria acts in the lead role.
Chief Inspectors of Mines Conference	Representative.	Representative – lead role.
Victorian OHS stakeholder consultation forum(s)	Representative.	Chair and administrator.
National OHS harmonisation	N/A	Victorian representative

4. Memorandum of Understanding (MoU) Governance

The MoU is an important document contributing to the way the two agencies interact on a daily basis. Directors and Operational Managers commit to meeting at least annually to review the relevance of the MoU and to discuss learnings, especially those associated with areas of overlapping responsibility.

5. Contact Information

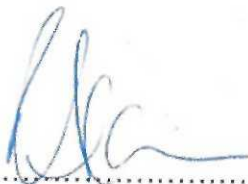
Both agencies will exchange and maintain up-to-date lists of contact persons for Mines, Extractive Industries and Petroleum/Geothermal areas.

This Schedule is executed for WorkSafe Victoria by its Chief Executive, Greg Tweedy:



Dated: 10/1/11

This Schedule is executed for Department of Primary Industries by its Deputy Secretary, Energy and Earth Resources Group, Richard Aldous:



Dated: 13/1/11

