

ENERGY TECHNICAL AND SAFETY LEADERS GROUP

HARMONISATION OF ENERGY TECHNICAL AND SAFETY REGULATION

Terms of Reference

Background

In November 2007, the Commonwealth Government committed to work with State and Territory Governments and the energy sector to improve the consistency of state-based regulations – such as occupational health and safety requirements – that apply to the energy sector.

As a first step in this process, on 14 April 2008 the Department of Resources, Energy and Tourism, on behalf of the Ministerial Council on Energy (MCE) Standing Committee of Officials (SCO), held a workshop with the energy sector and regulators. The purpose of the workshop was to discuss the extent of the technical and safety regulatory requirements that currently operate at a state/territory and national level, and the extent to which harmonisation has taken place. The workshop participants identified a number of areas of further work for advancing the harmonisation of technical and safety regulation. Participants also noted that the energy sector had been working to develop a harmonised approach to technical and safety regulation.

In 1994, the Council of Australian Governments (COAG) endorsed Australian Standard AS 2885 *Pipelines- Gas and Liquid Transmission* as the basis for regulating gas transmission pipelines. This standard is still used by regulators. Australian Standards Committee AG-008 is now preparing similar performance based standards for the gas distribution industry.

There are calls for similar standardisation for electricity networks. National standards for electricity transmission and distribution are at an early stage of development.

Different technical and safety requirements apply to electricity generators in each jurisdiction.

In April 2008, the Energy Network Association (ENA) released its policy for technical/safety regulation.¹ This policy seeks increased national consistency of network technical/safety requirements.

At its 13 June 2008 meeting, MCE recognised the importance of technical/safety regulation to ensure public safety, that workers operate within a safe environment and to enable the provision of safe and efficient energy services. MCE also noted that harmonisation of such regulation is also important to:

- enable the efficient delivery of energy services;

¹ Energy Network Association, *A policy for a national framework for energy safety in Australia*, April 2008.

- lower the compliance burden for multi-jurisdictional operators; and
- facilitate greater labour mobility and swifter emergency response, especially in the context of skilled labour shortages.

In recognising this, the MCE also approved Principles (See Appendix B.1) for the development of a harmonised approach to energy technical and safety regulation.

Other relevant reviews

At its 26 March 2008 meeting, COAG endorsed a far reaching reform agenda for reducing the costs of regulation and enhancing workforce mobility in areas of shared Commonwealth and State responsibility. COAG agreed to 27 areas of regulatory reform. This includes an inter-governmental agreement by May 2008 to harmonise occupational health and safety laws. COAG will consider the scope for a reduced implementation timetable at its meeting in July 2008.

It is recognised that the work of COAG may input into the development of specific energy technical and safety regulations, and potentially cover some areas of the energy supply chain.

Energy Technical and Safety Leaders Group

Given the work of industry to date, SCO notes the energy sectors' preference for a Working Group of industry, regulators and unions, to lead the development of an energy technical and safety regulation harmonisation enhancement plan.

SCO therefore invites all sectors of the energy industry to participate in the Energy Technical and Safety Leaders Group to develop the energy technical and safety regulation harmonisation enhancement plan, consistent with the Principles contained in Appendix B.1, noting however the possible overlap with the work of the COAG review of general Occupational Health and Safety Laws.

The Leaders Group is to comprise an Independent Chair appointed by SCO and representatives (or industry association acting on behalf of a segment of industry, or regulators) from the following sectors of the market;

- Electricity network owners and operators (from both transmission and distribution);
- Gas pipeline owners and operators or industry association (from both transmission and distribution);
- Energy retailers or industry association;
- Electricity generators or industry association;
- Energy technical and safety regulators (from both gas and electricity);
- Unions; and
- Energy users.

The Leaders Group should consult, as necessary, with other MCE Working Groups to ensure areas of overlap between the work of the Leaders Group and other work streams are coordinated. Jurisdictional representation may be part of the Leaders Group.

The Chair will report to the Chair of MCE SCO providing regular (bi-monthly) progress reports. The Commonwealth Department of Resources, Energy and Tourism will provide secretariat services for the Energy Technical and Safety Leaders Group and the Chair.

If the Plan is not provided by the required date, then the MCE will consider the need for developing and mandating its own technical and safety regulation harmonisation enhancement plan.

Scope of Work and Deliverables

The Leaders Group is to develop an Energy Technical and Safety Regulation Harmonisation Enhancement Plan to be presented at the next MCE meeting. Specifically, the Plan should include, at a minimum, separate work plans for the development of a more harmonised approach to energy technical and safety regulation for the electricity network and generation sectors, as appropriate.

In developing its plan, the Leaders Group should take account of the following:

- the MCE Principles in Appendix B.1;
- the new governance, institutional and legislative arrangements for the energy sector; and
- associated energy reform initiatives currently being undertaken by the MCE and the COAG Business Regulation and Competition Working Group reforms.

MCE PRINCIPLES FOR DEVELOPMENT OF HARMONISATION OF TECHNICAL AND SAFETY REGULATION

The Leaders Group should be guided by the following MCE Principles for developing an implementation plan and enhanced harmonisation of technical and safety regulation.

- Technical and safety regulation is important for public safety and to ensure workers operate within a safe environment and enable the provision of safe energy services, taking into account that energy supply industry assets reside in public places.
- Reducing the cost of regulation and the regulatory burden on business, particularly where regulation affects businesses that work across jurisdictional boundaries, without compromising safety outcomes.
- Enhancing productivity and workforce mobility - enable the delivery of efficient network services; lower the compliance burden for multi-jurisdictional operators; and facilitate greater labour mobility and swifter emergency response, especially in the context of skilled labour shortages.
- Regulatory certainty and consistency across all jurisdictions, to the extent appropriate.
- Energy specific regulation should not duplicate or be inconsistent with general Occupational Health and Safety legislation, and the Council of Australian Governments' (COAG) Business Regulation and Competition Working Group's reforms in the harmonisation of general Occupational Health and Safety laws and regulations. This should take into account that energy supply industry assets reside in public places.