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**MINISTER FOR RESOURCES AND ENERGY
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**AUSTRALIAN GOVERNMENT
RESPONSE TO
THE REVIEW OF REGULATORY
EFFICIENCY IN URANIUM
MINING**

MAY 2010

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Overview

As one of the world's largest producers and exporters of uranium, Australia has a leadership role in ensuring the sustainable development and responsible use of this important energy resource.

In 2008-09, Australia exported 10,114 tonnes of U₃O₈, which accounted for over \$ 1.03 billion in export earnings. In the last 10 years, the value of uranium exports has significantly increased, being of 107 per cent on 2000-01 levels. Australia's uranium exports support global efforts to address climate change.

Australia has the world's largest resources of uranium in reasonable assured resources (RAR) recoverable at less than US\$80/kg of uranium, with 1,163 kt of world resources in this category at December 2009, accounting for 38 per cent of world RAR. Based on current production, the estimated resource life is about 125 years. Australia has an additional 449 kt of uranium in inferred resources recoverable at less than US\$80/kgU which are the world's largest resources in this category.

Australia has three operating mines, the Ranger open pit mine in the Northern Territory (Energy Resources of Australia), Olympic Dam underground mine (BHP Billiton) and the Beverley ISR mine (Heathgate Resources) in South Australia. In addition, there are three ISR deposits, Beverley North (Heathgate Resources), Four Mile (Alliance Resources and Quasar Resources) and Honeymoon (Uranium One), which are expected to be producing in 2010.

The policy of this Government is that uranium exploration and mining be approved subject to environmental, safety and other regulatory requirements in line with world's best practice. This includes ensuring that Australian uranium is only exported to countries that observe the Treaty on the Non-Proliferation of Nuclear Weapons and which are committed to non-proliferation and nuclear safeguards. This policy acknowledges the radiation aspect of uranium and the public concern associated with radioactive substances.

Australia only exports uranium to countries within its network of bilateral safeguards agreements, which ensure that it is only used for peaceful purposes and does not enhance or contribute to any military applications. Australia exports uranium only to countries which observe the Treaty on the Non-Proliferation of Nuclear Weapons (NPT). States must also have in force an Additional Protocol.

Australian mining companies supply uranium under long-term contracts to electricity utilities in United States, Japan, China, South Korea and Canada as well as members of the European Union including United Kingdom, France, Germany, Spain, Sweden, Belgium, and Finland.

In September 2006, the Uranium Industry Framework (UIF) Steering Committee prepared a report that found there is no consistent national approach to the regulation of the uranium industry in Australia and this could be considered an impediment to the development of the industry. This finding was confirmed in the *Uranium Mining, Processing and Nuclear Energy Review* and the report, *Australia's uranium: Greenhouse friendly fuel for an energy hungry world*, which identified a number of issues around the regulation of uranium mining, including the complexity of the current system and the extent of overlap and duplication it entails. This was the key driver for commissioning this review of regulatory efficiency in the uranium mining industry.

The Department of Resources, Energy & Tourism (RET) in conjunction with the Department of Primary Industries and Resources South Australia (PIRSA) and the Northern Territory Department of Resources (NTDoR) commissioned Deloitte to undertake this review on behalf of the UIF Regulation Working Group.

As with all mining sectors in Australia, the uranium industry is subject to a range of regulatory arrangements imposed by Commonwealth, state and territory governments. The report found 10 areas of reform and 17 recommendations which fall under the reform agenda.

The Chair of the Uranium Council (formerly the UIF), Mr Mark Chalmers, provided this report to the Australian Government Minister for Resources and Energy, the Hon Martin Ferguson MP for his consideration. Minister Ferguson has considered the report in consultation with his ministerial colleagues and responded to each recommendation.

Recommendation	Government Response
<p>Recommendation 1: <i>That the Commonwealth undertake negotiations with State governments directed towards the repeal of any legislation and elimination of any regulations and policies that prevent exploration for and mining of uranium.</i></p>	<p>Not supported. The Commonwealth Government recognises that State or Territory Governments have legislative control of mining in their jurisdictions.</p> <p>The Commonwealth Government supports the Western Australian Government's decision to allow the mining of uranium, as the Commonwealth recognises that the expansion of uranium mining provides benefits to the economy.</p>
<p>Recommendation 2: <i>The Commonwealth review access to defence land to secure a better accommodation of Defence Department and resource sector needs.</i></p>	<p>Partially supported. The Government has an established process for resource sector access to Defence land. The established practice is to favour multiple land use, including mining, wherever this is compatible with the Commonwealth's use of the land. Under the <i>Lands Acquisition Act 1989 (Cth)</i> the Minister for Finance and Deregulation has the responsibility for granting access for exploration and mining purposes on Commonwealth land. Therefore requests for access to Defence land are directed to the Department of Finance and Deregulation (Finance) which then coordinates a whole of Government response. Where the use is compatible, companies then enter into access deeds with the Department of Defence (Defence) which specify any conditions which apply to the use of the land. Defence and Finance have adopted a process of continuous improvement in relation to resource sector access and, as a matter of course, will continue to review the process to better accommodate resource sector needs where it is possible to do so without impacting upon Defence's capability requirements.</p> <p>The land tenure of the Woomera Prohibited Area (WPA) differs from the normal Commonwealth regime, therefore companies have dealt directly with Defence for mining applications rather than applying for access through Finance. Four mining sites have been approved within the WPA and access for exploration is regularly granted outside of the core areas of the range subject to necessary conditions. Defence and the Department of Primary Industries and Resources of South Australia (PIRSA) are collaborating to provide greater clarity for prospective mineral explorers and miners in the WPA. The Commonwealth Department of Resources, Energy and Tourism (RET) is part of a working group comprising Defence, PIRSA, the South Australian Chamber of Mining and Energy (SACOME) to progress this issue.</p>
<p>Recommendation 3: <i>The Environment Protection and Biodiversity Conservation Act 1999 (EPBC) should be</i></p>	<p>Noted. Under section 522A of the EPBC Act, the Minister for Environment Protection, Heritage and the Arts is required to cause the EPBC Act to be independently reviewed within its first ten years of operation. On 31 October 2008, as Minister responsible for administering the EPBC Act, the Hon Peter Garrett AM MP announced the commencement of an independent review of the EPBC Act. The Terms of Reference for the review required that the review examine the operation of the EPBC Act and the extent</p>

<p><i>amended to remove the uranium mining and milling element of the nuclear trigger in order to treat the environmental aspects of uranium mines in the same manner as other mining developments.</i></p>	<p>to which the objects of the Act have been achieved since its commencement. The Terms of Reference also provided that the review be guided by the Commonwealth Government's deregulation agenda to reduce and simplify the regulatory burden on people, businesses and organisations, while maintaining appropriate and efficient environmental standards. The Review was publicly released on 21 December 2009. The Australian Government response to the independent review will provide a timely and appropriate forum to examine this recommendation.</p>
<p>Recommendation 4: <i>Consolidate all Commonwealth environmental responsibilities in relation to uranium mining (including the obligations under the EPIP Act, EPBC Act, Atomic Energy Act, and Alligator Rivers legislation) under the responsibility of Minister for Environment Protection, Heritage and the Arts.</i></p>	<p>Accepted. The environmental responsibilities applying to new uranium mines, or to extensions of existing mines, will be applied through approval conditions under the EPBC Act and will consequently be the responsibility of the Minister for Environment Protection, Heritage and the Arts. It is the Government's intention to move the environmental requirements for existing mines under the EPBC Act so that they will also be regulated by the Environment Minister. The legislative process for achieving this, however, requires careful consideration.</p> <p>The Australian Government has established a working group consisting of RET and the Department of the Environment, Water, Heritage and the Arts (DEWHA), to investigate this matter with the aim of achieving the above recommendation. The working group is also considering options in the context of the review of the EPBC Act referred to above.</p>
<p>Recommendation 5: <i>That the Commonwealth continue to develop protocols and working arrangements with relevant States/ Territories so that a single assessment process for proposed new or expanded uranium mines is undertaken where the EPBC Act is triggered. These protocols should include things such as clear time limits for the assessment process and the</i></p>	<p>Accepted. The Australian Government has assessment bilateral agreements under the EPBC Act in place with all states and territories to streamline environmental assessment processes. A key function of assessment bilateral agreements is to reduce duplication by effectively allowing the Commonwealth to delegate the responsibility for conducting EPBC Act environmental assessments to the states and territories. This allows certain proposals to be assessed only once in relation to both matters of Commonwealth and state/territory environmental significance.</p> <p>The bilateral agreements contribute to achieving a consistent and efficient system of environmental assessment and approval when Commonwealth and state/territory processes are involved.</p> <p>In addition, the Australian Government has been working with state and territory governments to improve consistency and standards in the regulation of uranium mining. Governments have developed a best practice guide for in-situ recovery (ISR) uranium mining. In relation to ISR uranium mining, the guide develops principles to support Australian Government policy that uranium mining, milling and rehabilitation is based on world best practice standards.</p> <p>The Australian Government will continue to investigate opportunities with states and territories for improving and streamlining</p>

<i>final determination.</i>	regulation of uranium mining.
Recommendation 6: <i>That all environmental requirements on uranium export permits be removed for those uranium mines approved under the EPBC Act.</i>	<p>Supported-in-principle. The EPBC Act has its own enforcement provisions and penalties and therefore the Australian Government recognises there is no requirement for export permits to enforce the environmental requirements of mining operation which have been approved under this Act.</p> <p>The Australian Government has established a working group consisting of RET and DEWHA to resolve any issues, including where mining operations have separate components approved under EPBC and EPIP Acts.</p>
Recommendation 7: <i>That the Ministerial responsibility for issuing export permits for uranium be reviewed with the objective of streamlining and consolidating stakeholder interaction with regulators.</i>	<p>Not supported. The Minister for Resources and Energy will retain the responsibility of issuing export permits. The environmental responsibilities applying to new uranium mines, or to extensions of existing mines will be applied through approval conditions under the EPBC Act and will consequently be the responsibility of the Minister for Environment Protection, Heritage and the Arts.</p>
Recommendation 8: <i>That a national Code of Practice for incident reporting be developed, which is derived from world best practice and based on actual risks.</i>	<p>Accepted. The Australian Government through the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) has developed a National Directory for Radiation Protection (NDRP) which promotes national uniformity of radiation protection and includes a national incident reporting framework establishing the Australian Radiation Incidents Register (ARIR). All provisions of the NDRP require endorsement by the Australian Health Ministers' Conference (AHMC) and must also meet the COAG requirements for national standard setting. In addition, all provisions of the NDRP are required to be adopted in each jurisdiction as soon as possible, using existing Commonwealth/State/Territory regulatory frameworks.</p> <p>The NDRP National Incident Reporting Framework is based on world's best practice by measuring the significance of incidents based upon concentrations, volumes and/or dose and then using those measurements to determine what level of reporting and response is required.</p> <p>In 2009, ARPANSA commenced a program to develop a national uniform framework for the assessment of environmental risks from releases of radionuclides and to develop decision-aiding tools and reference data. This ties in with the International Commission on Radiological Protection (ICRP) recommendations in ICRP Publication 103 (2007) which recommends that radiological protection of the environment be considered as part of international best practice and introduces the concept of measuring the health of reference animals and plants as a benchmark when conducting radiological environmental assessment.</p> <p>The NDRP reporting framework provides risk-based criteria and a mechanism for reporting incidents: that cause or could lead to radiation exposure to workers or members of the public; incidents involving transport of radioactive materials; and in relation to the unintentional or unauthorised discharges of radioactive materials into the environment.</p>

	<p>The recent amendments to the NDRP extend its operation to all mining and mineral processing industries, including the uranium sector, but do not address incident reporting in relation to the unintentional or unauthorised discharges of radioactive materials into the environment. However, it is anticipated that future editions of the NDRP will consider reporting for environmental releases. Further work is required before this can be implemented.</p> <p>The main limitation of the current NDRP framework is that it does not currently establish risk-based criteria for environmental incidents occurring in the mining and milling industries. ARPANSA will continue to work towards the development of a risk-based approach and criteria for reporting of all incidents to the NDRP, including incidents related to radioactive material releases to the environment from all industries. In addition, ARPANSA will develop a Safety Guide under the existing Code of Practice on mining and mineral processing to establish a national uniform framework for the assessment of environmental risks from releases of radionuclides.</p> <p>It should also be noted that the “Bachmann” incident reporting procedures used in South Australia is currently being reviewed. The outcome of this review will provide valuable input into the development of a National Code of Practice for incident reporting.</p>
<p>Recommendation 9: <i>That the Commonwealth and relevant State and Territory governments develop a national Code of Conduct relating to the frequency of stakeholder consultation for the ongoing monitoring of uranium mines. This would include reviewing the frequency of meetings and examining measures to consolidate and streamline stakeholder engagement.</i></p>	<p>Accepted. The Minister for Resources and Energy will progress this recommendation through a Working Group. The regime is to be adopted in all states and territories which undertake uranium mining activities.</p> <p>The recommendation refers specifically to consultation between mine operators and regulators in the context of the ongoing monitoring of uranium mines (a stakeholder engagement plan is likely to cover a broader range of issues beyond compliance reporting). There would be value in drawing on the information available on stakeholder engagement to develop more specific guidance for uranium mine operators on demonstrating compliance with environmental requirements to stakeholders, including government expectations in this regard. This guidance should not take a prescriptive approach in specifying frequency of stakeholder meetings but instead recognise the need to develop strategies specific to each mine and stakeholder group.</p>
<p>Recommendation 10: <i>That a single body be created with the responsibility for issuing permits for the transport of uranium, with protocols to be</i></p>	<p>Supported-in-principle. The Australian Government does not have jurisdiction for the implementation of this recommendation, nor do transport agencies. RET, Australian Safeguards and Non-Proliferation Office (ASNO) and ARPANSA will continue to work through the Uranium Council Transport Working Group with State and Territory jurisdiction to encourage a cooperative approach.</p>

<p><i>developed with State and Territory authorities under the auspices of the National Transport Council.</i></p>																												
<p>Recommendation 11: <i>That all States and Territories uniformly adopt the ARPANSA Code of Practice for the Safe Transport of Radioactive Material (2008 edition) into their relevant legislation governing the transport of radioactive materials, including uranium.</i></p>	<p>Accepted. Most jurisdictions have already adopted the 2008 Code or have commenced regulatory changes to implement the Code, however, it is not uniformly adopted across Australia at present. This may take up to two years before all jurisdictions have completely implemented the 2008 Code. The requirements of the 2008 Code do not differ in any significant way compared to the 2001 Code with respect to the transport of uranium.</p> <p>The Australian Government will continue to work with the States and Territories through the ARPANSA Radiation Health Committee (RHC) and its Transport Competent Authorities Working Group (TCAWG) to encourage the uniform adoption and application of the ARPANSA Code of Practice for the Safe Transport of Radioactive Material (2008 edition) and will report back through the Uranium Council Transport Working Group. The TCAWG includes not only radiation protection regulators but also the Civil Aviation Safety Authority and the Australian Maritime Safety Authority.</p> <p>The current status of the adoption of ARPANSA’s 2008 Transport Code, on a state-by-state basis, is set out in table form below:</p> <table border="1" data-bbox="528 759 1861 1412"> <thead> <tr> <th data-bbox="528 759 734 887">State</th> <th data-bbox="734 759 999 887">Has 2008 Transport Code been adopted?</th> <th data-bbox="999 759 1861 887">If not, when is it expected it to be?</th> </tr> </thead> <tbody> <tr> <td data-bbox="528 887 734 943">ARPANSA</td> <td data-bbox="734 887 999 943">Yes</td> <td data-bbox="999 887 1861 943">N/A</td> </tr> <tr> <td data-bbox="528 943 734 999">Qld</td> <td data-bbox="734 943 999 999">Yes</td> <td data-bbox="999 943 1861 999">N/A</td> </tr> <tr> <td data-bbox="528 999 734 1070">ACT</td> <td data-bbox="734 999 999 1070">No</td> <td data-bbox="999 999 1861 1070">Will be included in update of regulations. Unsure of the timetable.</td> </tr> <tr> <td data-bbox="528 1070 734 1126">NT</td> <td data-bbox="734 1070 999 1126">Yes</td> <td data-bbox="999 1070 1861 1126">N/A</td> </tr> <tr> <td data-bbox="528 1126 734 1182">NSW</td> <td data-bbox="734 1126 999 1182">Yes</td> <td data-bbox="999 1126 1861 1182">N/A</td> </tr> <tr> <td data-bbox="528 1182 734 1270">Vic</td> <td data-bbox="734 1182 999 1270">No</td> <td data-bbox="999 1182 1861 1270">Written to licence holders. Licence condition to take effect on 1 January 2010.</td> </tr> <tr> <td data-bbox="528 1270 734 1326">Tas</td> <td data-bbox="734 1270 999 1326">Yes</td> <td data-bbox="999 1270 1861 1326">N/A</td> </tr> <tr> <td data-bbox="528 1326 734 1412">SA</td> <td data-bbox="734 1326 999 1412">No</td> <td data-bbox="999 1326 1861 1412">On implementation of new Regulations after new Act. Estimated to be during 2010 or 2011.</td> </tr> </tbody> </table>	State	Has 2008 Transport Code been adopted?	If not, when is it expected it to be?	ARPANSA	Yes	N/A	Qld	Yes	N/A	ACT	No	Will be included in update of regulations. Unsure of the timetable.	NT	Yes	N/A	NSW	Yes	N/A	Vic	No	Written to licence holders. Licence condition to take effect on 1 January 2010.	Tas	Yes	N/A	SA	No	On implementation of new Regulations after new Act. Estimated to be during 2010 or 2011.
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	WA	No	No timeframe decided at present
	<p>The RHC has agreed to include the 2008 Code in its regulatory framework the NDRP. Furthermore, this amendment was also agreed by the Australian Health Ministers' Advisory Council (AHMAC), and all Ministers except Queensland, from whom an answer (due in March 2009) is still outstanding.</p>		
<p>Recommendation 12: <i>That the Commonwealth work through the CoAG process to ensure that uranium exporters have reasonable access to transport infrastructure (port facilities, rail and road) as they require, based on their commercial judgements.</i></p>	<p>Supported-in-principle. The Australian Government will continue to address issues relating to the transport of uranium through the Uranium Council Transport Working Group. In addition, the Minister for Resources and Energy will ask the Ministerial Council on Mineral and Petroleum Resources (MCMPR) to consider, and where appropriate, progress any recommendations from the Uranium Council Transport Working Group relating to road, rail and port access for uranium exports.</p>		
<p>Recommendation 13: <i>That governments, Land Councils and project proponents work together to address the core issues that are limiting access to ALRA land.</i></p>	<p>Support-in-principle. Major amendments to the <i>Aboriginal Land Rights (Northern Territory) Act 1976</i> in 2006 changed the arrangements for the negotiation of exploration and mining agreements on Aboriginal land with a view to streamlining the process. The new regime for exploration and mining on Aboriginal land is subject to a statutory independent review after five years of operation of the new arrangements in 2012. This will be an appropriate point to test whether the greater involvement of the Northern Territory Government in administering the system, together with the streamlined periods for negotiations between proponents and indigenous land holders, has resulted in a satisfactory balance between the rights of traditional owners under the ALRA and timely processing of applications for exploration tenements.</p>		
<p>Recommendation 14: <i>That ownership of uranium in the Northern Territory be vested in the Crown through the Northern Territory Government.</i></p>	<p>Not Supported. The Australian Government is seeking to treat uranium like all other minerals in the Northern Territory. For instance, the Australian Government has an agreement with the Northern Territory Government which provides the responsibility for the day-to-day regulation of uranium mining to the Northern Territory.</p> <p>The <i>Uranium Royalty (Northern Territory) Act 2009</i> seeks to mirror the Northern Territory mineral royalty regime for uranium.</p>		
<p>Recommendation 15: <i>Subject to the views of stakeholders, the Ranger uranium mine should be normalised under NT</i></p>	<p>Not Supported. Energy Resources of Australia Limited, the operator of the Ranger Uranium Mine is not seeking the "normalisation" of the Ranger uranium mine and a change of jurisdiction could introduce unintended consequences or raise sovereign risk issues.</p>		

<p>mining legislation.</p>	
<p>Recommendation 16: <i>That South Australian Government agencies continue to further progress the alignment of the environmental regulatory approach associated with the RWMP and MARP processes.</i></p>	<p>Noted – This is solely the responsibility of the South Australian Government. The South Australian Government has advised that they have made significant progress in aligning and streamlining the processes for these two statutory plans and an efficient process is now well established. PIRSA and the Environment Protection Authority SA will continue to look for further regulatory efficiencies.</p>
<p>Recommendation 17: <i>That the Commonwealth upgrade its level of representation at the IAEA by creating the position of Australian Ambassador for Nuclear Non-Proliferation.</i></p>	<p>Not supported – Australia’s interaction with the International Atomic Energy Agency (IAEA) is critical to our contribution to nuclear non-proliferation. However, we do not believe there is a need to upgrade our representation to the IAEA. The Australian Ambassador to the United Nations in Vienna effectively serves as an ambassador for non-proliferation by virtue of his position as a Governor on the IAEA’s thirty-five member Board of Governors. It would also duplicate the role of the Australian Ambassador for Disarmament in Geneva who works to maintain and improve the effectiveness of the Nuclear Non-Proliferation Treaty (NPT) - the cornerstone of the nuclear non-proliferation regime. Australia is an active advocate for nuclear non-proliferation and disarmament. Aside from the IAEA and NPT, Australia pursues nuclear non-proliferation as a member of: the Nuclear Suppliers Group (whose task is to contribute to nuclear non-proliferation through the implementation of common guidelines for nuclear exports and nuclear-related exports); the Global Initiative to Combat Nuclear Terrorism; and the Proliferation Security Initiative. Australia is also a vocal supporter of nuclear non-proliferation in the First Committee of the UN General Assembly.</p> <p>Australia is also a joint chair with Japan on the International Commission on Nuclear Non-proliferation and Disarmament which is seeking to address non-proliferation and nuclear disarmament issues. The report, <i>Eliminating Nuclear Threats</i> was released 3 December 2009.</p>