

QUEENSLAND MINING INDUSTRY HEALTH AND SAFETY CONFERENCE 2000

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Mining and Quarrying Safety and Health Regulation 2000

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SUMMARY

This paper outlines the process of review of regulations for safety and health for the Queensland metalliferous mining and quarrying industries. The Mining and Quarrying Safety and Health Regulation 2000 is currently being drafted and will accompany the Mining and Quarrying Safety and Health Act 1999 which will come into effect in March 2001. It provides an explanation of the process of review and regulation drafting and broad outlines of the regulation contents. It indicates differences between the existing Metalliferous Mining Regulations and the new regulations and provides an indication of the introduction process.

INTRODUCTION

The current safety and health legislation applying to Queensland metalliferous mines and quarries is the Mines Regulation Act 1964 and the Metalliferous Mining Regulations 1985.

The Act is based on legislation and legislative principles established in the 19th century. Indeed some of the wording dates for this time. The regulations gradually grew as mining accidents happened and it was believed that new laws would prevent recurrence of those accidents.

In 1991 the Government introduced a policy of systematic review of legislation. In 1992 a tripartite Legislation Review Group consisting of members of the Mines Inspectorate, trade unions and the metalliferous mining and quarrying industries was established.

The Legislation Review Group recognised that amendment to existing regulations was unrealistic and a new approach to improving safety and health in the industry was required. After lengthy negotiations, a Draft Policy Paper outlining proposed modern legislation was produced in 1994. The draft emphasised duty of care obligations for safety and health, establishment of safety management systems and the need for a risk management approach to safety. By 1999, this draft policy had been converted to the Mining and Quarrying Safety and Health Bill, which was passed as an Act by Parliament in August 1999.

Development of new regulations to accompany the Act began in 1994, but was suspended shortly after the Moura No. 2 Coal Mine explosion in August 1994. Following several false starts, the Legislation Review Group authorised the Mines Inspectorate to draft risk based regulations for the industry. A detailed Technical Draft of Regulations was widely circulated to industry in 1999 and discussed at workshops in regional Queensland in early 2000. A tripartite regulations working group was set up in February 2000 to review the technical draft and to provide specific instructions to Parliamentary Drafting Office to draft new regulations.

The new regulations, the Mining and Quarrying Safety and Health Regulation 2000 will come into effect in March 2001 at the same time as the Mining and Quarrying Safety and Health Act 2000.

The Act and Regulation will herald a new era in Queensland mine safety legislation. They will improve safety in the industry by ensuring that risks to safety and health are properly managed and that there is full accountability for safety issues on mines and quarries.

MINING AND QUARRYING SAFETY AND HEALTH ACT 2000

The objects of the Act are:

- to protect the safety and health of people at mines and persons who may be affected by operations
- to require that the risk of injury or illness to any person resulting from operations is at an acceptable level

The Act, when it comes into effect in March 2001, will apply to all mines other than coal mines, and to hard rock quarries. It will apply to exploration, winning and treating minerals and will include extraction, crushing, concentrating, smelting, leaching, etc.

It will apply to all phases of mining, from construction through to rehabilitation. It will apply to a vast range of size of mines, from the complex Mount Isa Mines operations at Mount Isa, complex chemical plants such as WMC Fertilizers at Phosphate Hill and to small single operator opal mines.

The legislation consists of three tiers, the Act, Regulations and Guidelines.

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| The Act | <ul style="list-style-type: none">- sets out the basic principles, objectives, obligations, framework for achieving objectives and requirements for risks to be managed.- compliance will be mandatory |
| The Regulation | <ul style="list-style-type: none">- establishes performance requirements where outcomes must be achieved- some prescriptive regulations which regulate how things must be done- compliance will be mandatory |
| Guidelines | <ul style="list-style-type: none">- will assist mine operators and employees to understand ways of achieving acceptable levels of risk- must be complied with unless another way is used which achieves a level of risk equal or better than an acceptable level.- are issued by the Minister. |

Copies of the Act may be purchased from the Queensland Government Printer – GOPRINT, and are readily available on the Queensland legislation web site www.legislation.qld.gov.au.

REGULATION DEVELOPMENT HISTORY

Following resumption of legislation development after the Moura No. 2 Coal Mine disaster inquiry, a discussion paper was circulated outlining the proposals for the new Act and Regulation.

Whilst the new Act was being drafted in conjunction with Parliamentary Drafting Office, the Mines Inspectorate was requested by the tripartite Legislation Review Group to expand the proposals for the new regulations.

A detailed Technical Draft Discussion Paper for the Mining and Quarrying Safety and Health Regulations 2000 was widely circulated in late 1999. This Technical Draft was used as the discussion basis for two day public workshops held in Mount Isa, Townsville and Brisbane in January / February 2000.

As a result of the workshops, a small working group was established to convert the Technical Draft into instructions for Parliamentary Drafting Office. The working group was to take into account feedback from the workshops and to produce practical implementable draft regulations.

The Regulations Working Group consists of six experienced industry representatives from various mining and quarrying safety and health backgrounds, an organiser from the Australian Workers' Union and three representatives of the Department of Mines and Energy. Meetings are held monthly.

The Technical Draft has been converted by Parliamentary Drafting Office into a Working Draft, which has a more legal format than the Technical Draft. The Working Group is steadily ploughing through the Working Draft to assist conversion into a Regulation by the Department and the Parliamentary Drafting Office.

Progress in conversion into a Regulation is dependent upon the availability of staff of the Parliamentary Drafting Office. This availability has been seriously affected by the need for drafting of other higher priority Government legislation.

REGULATION FORMAT AND CONTENT

The existing Metalliferous Mining Regulations already allow considerable flexibility to mining companies to find ways of compliance with the intention of the legislation. Terms such as “approved” or “unless otherwise allowed” are scattered throughout the regulations. Regulation 1.11 allows the Chief Inspector to exempt a person from compliance with any prescribed requirement. Unfortunately, these provisions have the effect of transferring ownership of the decisions to the inspector, who is not the person in control.

The new legislation makes no provisions for approvals by the inspector or for exemptions from its regulations.

In common with the existing regulations, the new Mining and Quarrying Safety and Health Regulation makes no attempt to provide separately for surface and underground mines. The regulation will apply equally to any mine regardless of size or type of mine. If a hazard exists, then the risks from that hazard must be managed. The way the risk is managed may however differ from mine to mine depending upon what controls are appropriate for that mine.

The regulation attempts to be as generic as possible without identifying particular hazards. For example, the only hazardous material considered separately is explosives. No special regulation applies for sulphuric acid, cyanide or other particular chemicals.

The regulation has 15 parts in total which are laid out in a logical system. The key parts are:

Part 2 Safety and Health Risk Management

Risk management procedures and practices are to be established in consultation with mine workers and must be compatible and coordinated throughout the mine. Hazards must be identified and controls monitored throughout the life of the mine. This Part also covers risk analysis and risk reduction.

Part 3 Work and Local Environment

This Part refers to health assessments if hazards are identified, establishment of exposure limits and adoption of Worksafe Australia Standards for Atmospheric Contaminants.

Part 4 Processes and Facilities

This Part refers to mine design, layout, construction and commissioning of a mine. It includes relationship of various fixed and operational facilities to each other and the need for managing the resulting risks.

It includes sections on roads, rail haulage, ventilation and ground control.

Part 5 Hazardous Materials

Dangerous goods and hazardous materials are defined. This Part refers to identification, labelling, storage and provision of information including MSDS. The Worksafe Australia Standard for Major Hazard Facilities is called up.

Explosives storage, handling and usage is considered in this Part as a separate hazardous material because of the unique extensive use and nature of explosives.

Part 6 Plant

Plant is defined very broadly for these regulations and includes not only fixed and mobile equipment but also tools, personal protective equipment, winder systems and electricity.

This Part considers selection, design, controls, construction, operation, maintenance and monitoring.

Part 7 Procedures and Standard Work Instructions

Procedures and standard work instructions that are critical to manage risks are defined. Access by workers to current procedures and instructions relevant to their work or tasks is mandatory.

Part 8 Persons on Site

This Part includes fitness for work, use of alcohol and drugs and general routine assessment for impairment. It refers to competency, training and induction of both workers and visitors, and to communications and supervision.

Part 9 Emergency Response

Whilst the majority of the regulations are to ensure that incidents do not occur, if they do provision must be made for re-establishing control and preventing further injury. This Part considers evacuation, refuges, rescue, first aid and medical treatment.

Part 10 Incident Investigation

The Act requires investigation of accidents and incidents. This Part provides for investigation methods, reporting and recording of accidents and incidents.

WHERE TO FROM HERE?

Part of the Queensland process for regulation development and implementation is public release of a Regulatory Impact Statement. This is due for release in September this year and will allow further public comment on the need for regulations.

The Regulation Working Group continues to meet on a regular basis and will continue drafting with Parliamentary Counsel. Drafts will be provided to stakeholders for further comment.

The final draft must be submitted to Cabinet for approval and then receive assent from the Executive Council.

The implementation date for the regulations is the same as that for the Mining and Quarrying Safety and Health Act 1999, which is March 2001.

Drafting of the third tier of the legislation – Guidelines issued by the Minister - will be ongoing before and after implementation of the Act. Draft Guidelines will be prepared in a standard format by the Mines Inspectorate prior to circulation to industry for comment.

CONCLUSIONS

The current draft of the Mining and Quarrying Safety and Health Regulations 2000 has been developed with extensive input from representatives of the mining industry.

Introduction of the Regulation, together with the Mining and Quarrying Safety and Health Act 1999 in March 2001, will be a major step towards improvement in managing risks inherent in mining activities.