
MINERALS AND PETROLEUM

MP301*

Mines Safety and Inspection Act 1994

**Mines Safety and Inspection Amendment
Regulations 2009**

Made by the Governor in Executive Council.

1. Citation

These regulations are the *Mines Safety and Inspection Amendment Regulations 2009*.

2. Commencement

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) regulation 18 — 12 months after the day on which these regulations are published in the *Gazette*;
- (c) the rest of the regulations — on the day after the day on which these regulations are published in the *Gazette*.

3. Regulations amended

These regulations amend the *Mines Safety and Inspection Regulations 1995*.

4. Regulation 1.3 amended

- (1) In regulation 1.3 delete the definitions of:
National Model Regulations for the Control of Workplace Hazardous Substances
Worksafe Australia
- (2) In regulation 1.3 insert in alphabetical order:

AS/NZS followed by a designation, refers to the Australian/New Zealand Standard having that designation that is published jointly by Standards Australia and Standards New Zealand;
National Model Regulations for the Control of Workplace Hazardous Substances means the

“National Model Regulations for the Control of Workplace Hazardous Substances” [NOHSC: 1005 (1994)] declared by the NOHSC and published in March 1994;

NOHSC means the National Occupational Health and Safety Commission established by the *National Occupational Health and Safety Commission Act 1985* (Commonwealth) section 6;

- (3) In regulation 1.3 in the definition of *underground supervisor’s certificate* delete “regulation 2.23;” and insert:

regulation 2.23.

5. Regulations 2.4B and 2.4C deleted

Delete regulations 2.4B and 2.4C.

6. Regulation 2.6B deleted

Delete regulation 2.6B.

7. Regulation 3.23 amended

- (1) In regulation 3.23 delete the definitions of:

authorised medical officer

designated work

existing employee

initial health assessment

Perth Chest Clinic

- (2) In regulation 3.23 insert in alphabetical order:

additional health assessment means a health assessment other than one referred to in regulation 3.25 or 3.26;

- (3) In regulation 3.23 in the definition of *assessment form* delete “Mining Industry Advisory Committee” and insert:

State mining engineer

- (4) In regulation 3.23 in the definition of *new employee* delete the passage that begins with “and who —” and continues to the end of the definition and insert:

and who has not previously received a health assessment under regulation 3.25 or 3.26;

- (5) In regulation 3.23 in the definition of *occupational disease* delete paragraph (a) and “or” after it and insert:

- (a) a disease of a kind referred to in the *Workers’ Compensation and Injury Management Act 1981* Schedule 3; or

8. Regulation 3.25 amended

- (1) Delete regulation 3.25(1) and insert:

- (1) The principal employer and each employer at a mine must ensure that a health assessment is carried out on each new employee at the mine within 3 months after the day on which the person became a new employee.

- (2) In regulation 3.25(2)(e) delete “x-ray.” and insert:

x-ray, if the medical practitioner or the approved person considers that one is necessary or desirable.

- (3) In regulation 3.25(3)(b) delete “form and the chest x-ray plate to the authorised medical officer.” and insert:

form, and the chest x-ray (if any), to the State mining engineer.

9. Regulation 3.26 amended

- (1) In regulation 3.26(1) delete “at intervals not exceeding 5 years.” and insert:

who has not received a health assessment under regulation 3.25 or this regulation in the last 5 years.

- (2) In regulation 3.26(2):

- (a) delete “The health assessment” and insert:

A health assessment

- (b) delete paragraph (e) and insert:

- (e) a chest x-ray, if the medical practitioner or the approved person considers that one is necessary or desirable.

(3) In regulation 3.26(3):

- (a) delete “the health assessment” and insert:

a health assessment

- (b) in paragraph (b) delete “form and the chest x-ray plate (where applicable) to the authorised medical officer.” and insert:

form, and the chest x-ray (if any), to the State mining engineer.

(4) After regulation 3.26(3) insert:

- (4) Even if health assessments are carried out on an employee at intervals of less than 3 years, the medical practitioner or the approved person need not comply with subregulation (3)(b) more frequently than once every 3 years.

10. Regulation 3.27 replaced

Delete regulation 3.27 and insert:

3.27. Additional health assessment

- (1) The principal employer and each employer at a mine must ensure that additional health assessments are carried out in respect of an employee who engages in specified occupational exposure work at the mine, if —
- (a) an identifiable disease or other adverse effect on the health of the employee may be related to the exposure; and
 - (b) there is a reasonable likelihood that the disease or adverse effect may occur under the particular conditions of work; and
 - (c) there are recognised techniques for detecting indications of the disease or adverse effect.
- (2) The State mining engineer may direct that an additional health assessment be carried out in respect of specified employees at a mine.
- (3) The principal employer and each employer at the mine must ensure that a direction given under subregulation (2) is complied with as soon as is practicable.

Penalty: See regulation 17.1.

- (4) The State mining engineer may require the results of any additional health assessment carried out in respect of employees at a mine to be given to the State mining engineer.
 - (5) The principal employer and each employer at a mine must ensure that a requirement made under subregulation (4) is complied with as soon as is practicable.
- Penalty: See regulation 17.1.

11. Regulation 3.28 amended

- (1) In regulation 3.28(1) delete “valid” and insert:

recognised

- (2) In regulation 3.28(1) delete the penalty.
- (3) At the end of regulation 3.28(3) insert:

Penalty: See regulation 17.1.

12. Regulation 3.29 amended

Delete regulation 3.29(b) and insert:

- (b) works, or is expected to work, at a mine or mines for a cumulative period not exceeding 3 months in any 12 month period if there is no, or there is not expected to be, significant exposure to hazardous substances or agents during the cumulative period.

13. Regulation 3.32 deleted

Delete regulation 3.32.

14. Regulation 4.2 amended

In regulation 4.2 delete “of sections 10, 11.8, 12.1, 12.2, 12.3, 12.4, 12.10, 12.11, 13.1, 13.2, 13.3, 13.9, 13.14, 13.15, 13.16, 14.1, 14.2 and 14.7 of AS 2865” and insert:

of AS/NZS 2865:2001

15. Regulation 4.5 amended

In regulation 4.5(1)(b)(ii) delete “so as” and insert:

so

16. Regulation 4.22 amended

In regulation 4.22 in the Table delete “AS 2865” and insert:

AS/NZS 2865

17. Regulation 5.10 amended

In regulation 5.10(2)(a):

- (a) in subparagraph (i) delete “corporate” and insert:

professional engineer

- (b) in subparagraph (ii) delete “A grade”;

- (c) in subparagraph (ii) delete ““electrical fitter and electrical mechanic”” and insert:

“electrician” or “electrical mechanic”

18. Regulation 6.37 amended

- (1) Before regulation 6.37(1) insert:

- (1A) Subject to subregulation (2), a person must not —

- (a) do high risk work of a particular class at a mine unless the person holds a high risk work licence for that class of work; or
- (b) operate or drive a winding engine at a mine unless the person holds a certificate and has the written authorisation of the manager of the mine; or
- (c) operate or drive a hoist at a mine (whether or not that work is covered by paragraph (a)) unless the person has the written authorisation of the manager of the mine; or
- (d) operate or drive any plant not covered by paragraph (a), (b) or (c) at a mine unless the person has been trained and found to be competent by a practical trial in the operation of that plant by the manager of the mine or

some other suitable person appointed for that purpose by the manager.

Penalty: See regulation 17.1.

- (2) In regulation 6.37(1)(a)(i) delete “or under the *Occupational Safety and Health Act 1984*” and insert:

or a high risk work licence under the
*Occupational Safety and Health
Act 1984*,

- (3) In regulation 6.37(3):

- (a) delete “subregulation (1)(a)” and insert:

subregulation (1A)(a), (b) or (c) or (1)(a)

- (b) delete “certificate.” and insert:

certificate or licence.

- (4) After regulation 6.37(4) insert:

- (5) For each person authorised, or found to be competent, by or on behalf of the manager of a mine under subregulation (1A) or (1), the manager must record in the record book —

- (a) the name of the person; and
- (b) the date on which the person was authorised or found to be competent; and
- (c) if the person undertook a test or practical trial — the date on which the test or trial was undertaken and the name and signature of the person who carried out the test or trial.

Penalty: See regulation 17.1.

- (6) In subregulations (1A) and (1) —

high risk work and **high risk work licence** have the meaning given in the *Occupational Safety and Health Regulations 1996* regulation 6.1.

- (7) During the 12 month period commencing on the day on which subregulation (1A) (as inserted by the *Mines Safety and Inspection Amendment Regulations 2009*) came into operation —

- (a) subregulation (1A) does not apply in respect of underground mining operations; and

- (b) subregulation (1) applies in respect of underground mining operations only,
- and, at the end of that period, subregulation (1) ceases to have effect.
- (8) For the purposes of subregulation (1A)(a), if, in relation to a particular class of high risk work, a person does not hold an appropriate high risk work licence but —
 - (a) the person holds a certificate of competency under the *Occupational Safety and Health Act 1984*; and
 - (b) the certificate authorises or authorised the person to do that class of work,the person is to be taken to hold a high risk work licence for that class of work.
- (9) In this regulation, a reference to a certificate of competency under the *Occupational Safety and Health Act 1984* is a reference to such a certificate issued under that Act for which the transition period under that Act has not expired, and which is not suspended.

19. Regulation 7.20 amended

In regulation 7.20 delete the definition of *National Code of Practice for the Preparation of Material Safety Data Sheets* and insert:

National Code of Practice for the Preparation of Material Safety Data Sheets means the “National Code of Practice for the Preparation of Material Safety Data Sheets” 2nd Edition [NOHSC: 2011 (2003)] declared by the NOHSC and published in April 2003;

20. Regulation 9.1 amended

- (1) In regulation 9.1 insert in alphabetical order:

Exposure Standards for Atmospheric Contaminants in the Occupational Environment means the “Adopted National Exposure Standards for Atmospheric Contaminants in the Occupational Environment” [NOHSC:1003 (1995)] declared by the NOHSC and published in May 1995;

Guidance Note on the Membrane Filter Method for Estimating Airborne Asbestos Fibres means the “Guidance Note on the Membrane Filter Method for Estimating Airborne Asbestos Fibres” 2nd Edition

[NOHSC:3003 (2005)] declared by the NOHSC and published in April 2005;

- (2) In regulation 9.1 in the definition of *exposure standard* delete paragraph (a) and “or” after it and insert:

- (a) the standard specified in the Exposure Standards for Atmospheric Contaminants in the Occupational Environment; or

21. Regulation 9.2 amended

In regulation 9.2 delete “Worksafe Australia’s National Exposure Standards (NOHSC:1003)” and insert:

the Exposure Standards for Atmospheric Contaminants in the Occupational Environment

22. Regulation 9.13 amended

Delete regulation 9.13(1)(b)(iv) and “or” after it and insert:

- (iv) in the case of asbestos fibres, the Guidance Note on the Membrane Filter Method for Estimating Airborne Asbestos Fibres; or

23. Regulation 9.32 amended

In regulation 9.32(a) delete “Code of Practice for the Safe Removal of Asbestos (NOHSC:CP002-1988), published by Worksafe Australia; and” and insert:

“Code of Practice for the Safe Removal of Asbestos” 2nd Edition [NOHSC:2002 (2005)] declared by the NOHSC and published in April 2005; and

24. Regulation 9.33 amended

In regulation 9.33(2) delete “Dust (NOHSC:GN 003-1988) published by Worksafe Australia.” and insert:

Fibres.

25. Regulation 16.6 amended

In regulation 16.6 delete “(other than exploration operations)”.

26. Regulation 16.7 amended

In regulation 16.7(1)(b) delete “(other than exploration operations)”.

27. Regulation 16.14 amended

In regulation 16.14(1) delete “(other than exploration operations)”.

28. Schedule 1A deleted

Delete Schedule 1A.

By Command of the Governor,

PETER CONRAN, Clerk of the Executive Council.