

MN301

## MINES REGULATION ACT 1946

## MINES REGULATION AMENDMENT REGULATIONS 1991

Made by His Excellency the Governor in Executive Council.

## Citation

1. These regulations may be cited as the *Mines Regulation Amendment Regulations 1991*.

## Principal regulations

2. In these regulations the *Mines Regulation Act Regulations 1976\** are referred to as the principal regulations.

[\*Reprinted in the Gazette of 14 September 1984 at pp. 3945-3071. For amendment to 3 December 1990 see pp. 304-5 of 1989 Index to Legislation of Western Australia and the Gazette of 3 August 1990.]

## Regulation 9.1 amended

3. Regulation 9.1 of the principal regulations is amended in subregulation (1)—

(a) in the definition of "Mines Medical Officer" by deleting "appointed." and substituting the following—

" appointed; "; and

(b) by inserting in the appropriate alphabetical positions the following definitions—

" "action level" means an action level referred to in regulation 9.17; ";

" "approved" means approved by the Commissioner for Occupational Health, Safety and Welfare; ";

" "AS 1269" refers to the Australian Standard having that designation that is published by the Standards Association of Australia and referred to in Schedule 1 to the *Occupational Health, Safety and Welfare Regulations 1988*, and includes—

(a) any amendment thereto made before the reference to the document was included in that Schedule; and

(b) any amendment thereto specified in that Schedule; ";

" "audiogram recorded under the repealed regulations" includes a copy of an audiogram so recorded and any written details or information including test results or details of a computer code, relating to, identifying or derived from an audiogram so

recorded, other than any statistical summary referred to in regulation 27 of those regulations or a copy of such a statistical summary; ”;

“ dB(A)” means decibels of A-weighted sound pressure level; ”;

“ dB(lin)” means decibels of unweighted sound pressure level; ”;

“ noise exposure” means the amount of sound energy a person is exposed to during a representative working day, ascertained as AS 1269 provides for LAeq,8h to be ascertained; ”;

“ noise level” means the A-weighted sound pressure level in decibels as read from approved sound measurement equipment; ”;

“ noise report” means a noise report prepared in accordance with regulation 9.25; ”;

“ peak noise level” means the unweighted peak hold sound pressure level (or L peak) in dB(lin) as read from approved sound measurement equipment; ”;

“ repealed regulations” means the *Noise Abatement (Hearing Conservation in Workplaces) Regulations 1983*; ”;

“ voluntary audiometric testing programme” means a programme voluntarily initiated by the Manager to test the hearing of persons, who have voluntarily decided to take part in the programme, by means of audiometric measurements showing the hearing threshold level of a person as a function of frequency; ”;

“ workplace” means a place in or about a mine, where employees work or are likely to be in the course of their work. ”.

#### Regulations 9.16 to 9.29 inserted

4. After regulation 9.15 of the principal regulations the following regulations are inserted—

##### All measurements to be as if ear unprotected

- “ 9.16. Where a person is wearing a personal hearing protector, that person shall be regarded, for the purposes of this Part, as receiving the noise that would be received if that personal hearing protector were not worn.

##### Action level for noise

9.17. In this Part, the action level is—

- (a) for peak noise level, 140 dB(lin); or
- (b) for noise exposure, 90 dB(A).

##### Manager to reduce noise as far as practicable

9.18. The Manager shall reduce as far as practicable the noise received by each person at the workplace.

##### Manager to reduce noise below action level by using certain methods

9.19. The Manager shall reduce as far as practicable the noise received by each person at the workplace who is receiving, or is likely to receive, noise above the action level by complying with regulation 9.20.

##### Methods to be used to reduce noise below action level

9.20. For the purpose of complying with regulation 9.19 the Manager shall reduce noise—

- (a) as far as practicable, by engineering noise control (that is reducing noise level or peak noise level); and
- (b) to the extent that it is not practicable to comply fully with regulation 9.19 by engineering noise control, by limiting the length of time the person receives noise.

##### Personal hearing protectors

9.21. Without limiting any duty to reduce noise placed on a Manager by this Part, if any person is receiving, or is likely to receive, at the workplace noise above the action level a Manager shall—

- (a) provide a personal hearing protector, selected and maintained as approved, to each of those persons; and
- (b) display safety warning signs regarding the wearing of personal hearing protectors.

**Manager's duty regarding information, instruction and training as to hearing risks**

9.22. Where this Part places a duty on a Manager to—

- (a) provide a person with a personal hearing protector; or
- (b) limit the length of time any person receives noise,

then that Manager shall also provide the person with appropriate information, instruction and training regarding risks to hearing, steps to be taken to reduce these risks, and the use and maintenance of personal hearing protectors.

**Noise report to be prepared**

9.23. The Manager shall cause a noise report relating to a workplace to be prepared as soon as practicable if, after reducing noise in accordance with regulation 9.20, a person at the workplace is still receiving, or is likely to receive, noise above the action level.

**Additional noise report**

9.24. Where a noise report relating to a workplace has been prepared the Manager shall cause another noise report to be prepared relating to the current noise situation at that workplace as soon as practicable where—

- (a) there is, or is likely to have been, an increase of 5dB or more in the peak noise level or noise exposure received by a person at the workplace who was already receiving noise above the action level;
- (b) at any time after 5 years from the date of the last noise report relating to the workplace, any person at the workplace is receiving, or is likely to be receiving, noise above the action level; or
- (c) required to do so by an Inspector.

**Noise reports**

9.25. (1) A Manager required to cause a noise report to be prepared shall ensure that the report is prepared in the manner and form approved in relation to the workplace or type of workplace.

(2) The Manager shall ensure that the noise data on which a noise report is based, or of which a noise report is comprised, is collected by a person approved to collect that data, who shall be known as a noise officer.

(3) A noise officer shall use only approved procedures and approved sound measurement equipment to collect data which is to be used for a noise report.

**Duty of Manager after noise report prepared**

9.26. (1) As soon as practicable after a noise report relating to a workplace has been prepared, the Manager shall—

- (a) communicate the contents of the noise report to all persons at the workplace and to any other persons that the Manager considers to be at risk;
- (b) notify the State Mining Engineer in the approved manner that the noise report has been prepared; and
- (c) if requested to do so make a copy of the noise report available to an Inspector or person employed in or about that mine.

(2) The Manager shall retain at the workplace if practicable, or if that is not practicable at another readily accessible place—

- (a) if only one noise report relating to the workplace has been prepared, that report; or
- (b) if more than one noise report relating to the workplace has been prepared, the last 2 of those reports prepared.

**Dealing with audiograms recorded under the repealed regulations**

9.27. (1) Except as provided in subregulation (2), a person shall not communicate—

- (a) the contents of, or any information on the contents of, an audiogram recorded under the repealed regulations; or
- (b) any information which enables or assists a person to gain access to the contents of, or any information on the contents of, an audiogram recorded under the repealed regulations.

(2) A person may make a communication referred to in subregulation (1) if it is made—

- (a) by, to, or with the written consent of, or at the written request of the person to whom the audiogram relates; or
- (b) in accordance with the written approval of the Commissioner of Occupational Health, Safety and Welfare.

**Noise officers and noise reports**

9.28. (1) Unless and until otherwise approved under regulation 9.25, a person who was approved as a noise officer under the repealed regulations immediately before the commencement of the *Mines Regulation Amendment Regulations 1991* is deemed to be a noise officer for the purpose of these regulations until that approval would have expired under the repealed regulations.

(2) A report prepared on a noise survey on a workplace made under the repealed regulations and not superseded by the findings of another report as referred to in regulation 6 (2) of those regulations is deemed to be a noise report relating to that workplace for the purpose of this Part.

**Transfer of audiograms recorded under the repealed regulations**

9.29. (1) A person who, on the day on which the *Mines Regulation Amendment Regulations 1991* come into operation, is in possession of an audiogram recorded under the repealed regulations shall transfer the audiogram as soon as practicable and by not later than one year after that day—

- (a) to a person who is to carry out a voluntary audiometric testing programme—
  - (i) if the person to whom the audiogram relates has consented in writing to the audiogram being used for the purposes of that programme; or
  - (ii) if the Commissioner for Occupational Health, Safety and Welfare, after advising the Occupational Health, Safety and Welfare Commission so directs;
- (b) if it is impossible or impracticable to comply with paragraph (a), to the person to whom the audiogram relates; or
- (c) if it is impossible or impracticable to comply with paragraph (a) or (b), to the Commissioner for Occupational Health, Safety and Welfare or to an approved organization.

(2) Subregulation (1) does not apply where the person is in possession of the audiogram is—

- (a) the Commissioner for Occupational Health, Safety and Welfare;
- (b) the person to whom the audiogram relates; or
- (c) a person in possession of the audiogram with the written consent, or at the written request, of the person to whom the audiogram relates. "

By His Excellency's Command,

M. C. WAUCHOPE, Clerk of the Council.