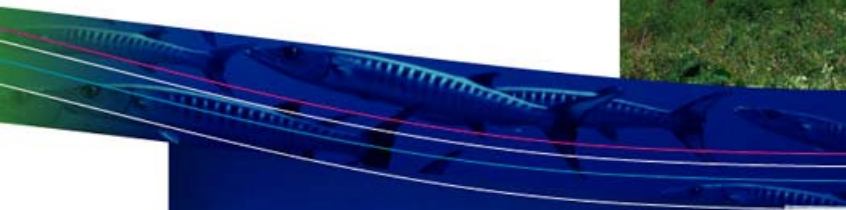




NSW DEPARTMENT OF
PRIMARY INDUSTRIES



Partners in the profitable and sustainable development of
agriculture, fisheries, forests and minerals in New South Wales



Extension of the OHS Regulation
to coal workplaces

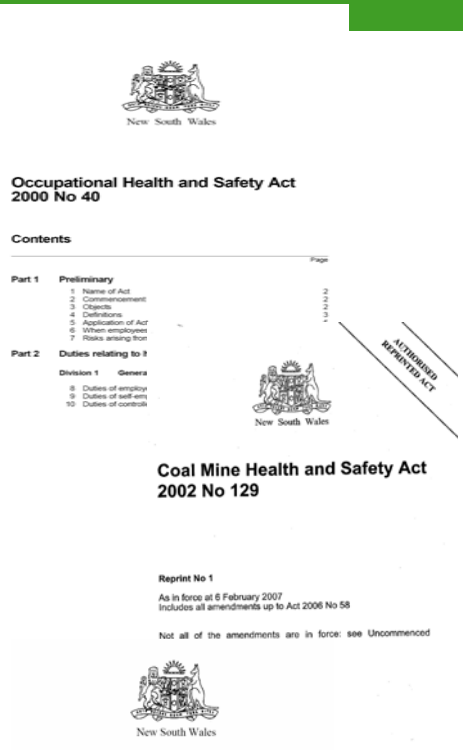


Agenda for today's seminar

- **Welcome**
- **Recap relationship between the Coal Mine Health and Safety Act & Regulation and Occupational Health and Safety Act & Regulation and the joint application to coal workplaces.**
- **Discussion regarding the extension of the OHS Regulation to coal workplaces what applies already and what will apply from September 2008.**
- **Questions.**



Ensuring safety at work: The Legal Framework



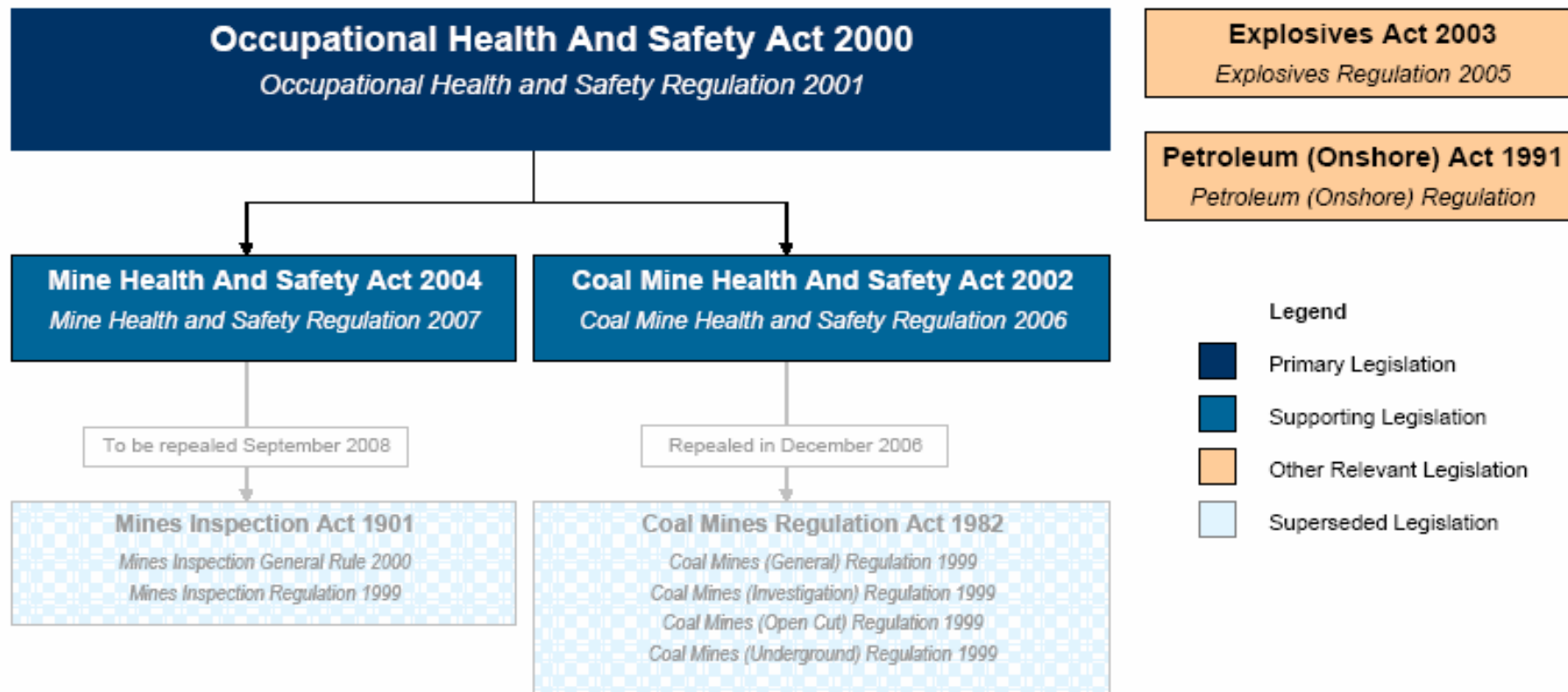
OHS Act 2000 &
OHS Regulation 2001

Coal Mine Health & Safety Act 2002 &
Coal Mine Health & Safety Reg 2006

Explosives Act 2003 &
Explosives Regulation 2005



COAL MINE HEALTH AND SAFETY LEGISLATIVE FRAMEWORK





What does the Occupational Health & Safety Act say?

■ OHS Act applies to:

- Employers, self-employed people & employees
- Persons in control of –
 - non-domestic premises
 - plant or substances
- Manufacturers, designers & suppliers (of plant & substances)

■ Employers must ensure health safety & welfare of employees

■ Employers & self-employed people: duty to visitors



What does the Coal Mine Health & Safety Act say?

- **The objects of this Act are to:**
 - (a) to assist in securing the objects of the [OHS Act 2000](#)
 - (b) to control particular risks associated with mining

- **CMHS Act adds to the OHS Act: OHS Act & Regulation prevail**

- **Key aspects of CMHS Act:**
 - **Duty holders: Colliery Holder (owner), Mine Operator (employer in control), Contractors, Supervisors & employees**
 - **Colliery Holder must nominate mine operator**
 - **Mine Operator must co-ordinate safety effort on site**
 - **Contractors must have safe systems of work**

2001 No 648



New South Wales

Occupational Health and Safety Regulation 2001

under the

Occupational Health and Safety Act 2000

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Occupational Health and Safety Act 2000*.

JOHN DELLA BOSCA, M.L.C.,

Special Minister of State

Explanatory note

The object of this Regulation is to replace existing regulations relating to occupational health, safety and welfare with a single consolidated regulation.

The regulations replaced include regulations made under provisions of the *Construction Safety Act 1912*, the *Factories, Shops and Industries Act 1962* and the *Occupational Health and Safety Act 1983* repealed by the *Occupational Health and Safety Act 2000*.

The new Regulation contains provisions in respect of the following matters:

- (a) the identification of hazards by employers and the elimination or control of risks at employers' places of work,
- (b) the establishment of occupational health and safety committees and the election of employees' representatives in connection with an employer's duty under the Act to consult with employees in respect of decisions affecting their health, safety and welfare at work,
- (c) the duties of a controller of premises used by people as a place of work to identify hazards and eliminate or control risks at the premises,
- (d) particular risk control measures (including provisions regarding lighting, noise, atmosphere, electricity, confined spaces and manual handling),



Let's take a closer look at...

The OHS Regulation

How the OHS Regulation will be amended to apply to coal workplaces



Occupational Health and Safety Amendment (Application to Mining Workplaces and Coal Workplaces) Regulation 2008

under the
Occupational Health and Safety Act 2000

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Occupational Health and Safety Act 2000*.

Minister for Mineral Resources

Explanatory note

At present, the *Occupational Health and Safety Regulation 2001* does not apply to mining workplaces or coal workplaces, except to the limited extent specified in Schedules 4 and 4A of the Regulation. It does apply to places of work at which activities under the *Petroleum (Onshore) Act 1991* or the *Petroleum (Submerged Lands) Act 1982* are carried out.

The object of Schedule 1 to this Regulation is to broadly apply the *Occupational Health and Safety Regulation 2001* to the mining industry, with some specific modifications or exceptions to take into account the specific nature of mining and the fact that additional protections are imposed by the *Mine Health and Safety Act 2004* and the *Coal Mine Health and Safety Act 2002*. The object of Schedule 2 to this Regulation is to make some minor amendments of a law revision nature.

This Regulation is made under the *Occupational Health and Safety Act 2000* (as amended by the *Mine Health and Safety Act 2004*), including sections 133 (Application of Act to mining workplaces and coal workplaces—references to WorkCover) and 33 (the general regulation-making power).

- On 1 September 2008 the OHS Regulation will be amended to reflect the provisions outlined in the ‘Occupational Health and Safety Amendment (Application to Mining Workplaces and Coal Workplaces) Regulation 2008’.

- After 1 September the amended OHS Regulation will be available from www.legislation.nsw.gov.au



The 12 Parts of the OHS Regulation

Common requirements

1. Preliminary
2. Risk Management
3. Consultation

Specific risk controls

4. Work Premises & Working Environment
5. Plant
6. Hazardous Substances & Dangerous Goods

7. Hazardous Processes

8. Construction Work

Administration

9. Certificates of competency for High Risk Work

10. Business Licensing

11. Permits for Certain Work

12. Miscellaneous



CMHSR GENERAL:

Safety Management Plans

Emergency Plan

Contractor Plan

OHSR GENERAL:

Risk Management

Consultation

Amenities

Information

Training

Supervision

PPE

CMHSR RISK CONTROLS:

Slope Stability

Strata Failure

Inrush

Explosion

Dust

Conveyor Belts

OSHR RISK CONTROLS:

Asbestos

Noise

Confined Spaces

Manual Handling

Plant Safety

Dangerous Goods

Hazardous Substances

Fall Prevention

Working at Heights

Hot & Cold

Hazardous Processes

Electrical Safety

Construction Work

Demolition

Certificates of Competency

Permits & Licensing



Part 1 of the OHS Regulation

- **Part 1 – Preliminary**
- **Deals with the scope and application of the OHS regulation**
- **Provides definitions**
- **Meaning of “control” of risks**
- **Alternative duties if primary duty not practicable**



Let's have a closer look: **Part 2** of the OHS Regulation

■ **Part 2 – Risk Management**

<ul style="list-style-type: none">✓ Do Identify Hazards✓ Do Assess Risk✓ Do Eliminate or Control Risk✓ Do Review Risk Assessment✓ Do Review Risk Controls	<ul style="list-style-type: none">✓ Provide Instruction & Training✓ Provide Information✓ Provide Supervision✓ Provide Amenities✓ Provide First Aid✓ Provide PPE
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NSW DPI provides additional guidance on risk management and health and safety management plans in coal workplaces. Visit : www.dpi.nsw.gov.au/minerals/safety for audit checklists, guidance documents and support material.



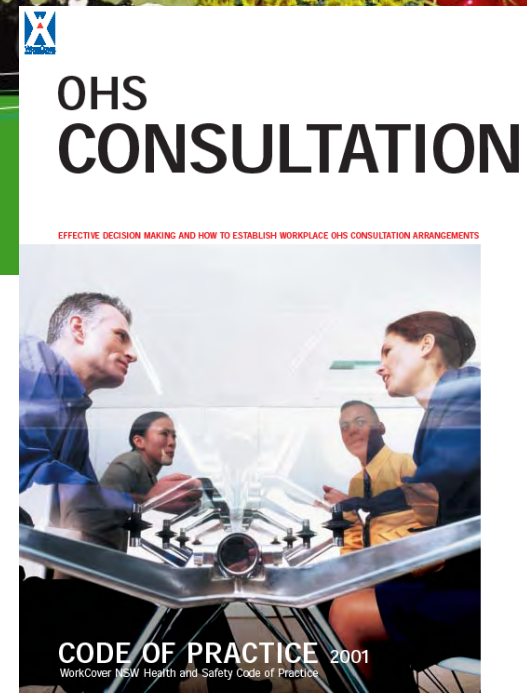
Part 2: Risk Management (cont.)

The requirements for Risk Management mean that you need to:

- Know what the OHS problems are in your workplace (identify)
- Be aware of the harm they can cause (assess)
- Do something about it to ensure that people are not harmed (control)

Part 3 Consultation

- Employer has '*Duty to Consult*' under the OHS Act
- Part 3 - Consultation has applied to coal workplaces since 2001.
- For assistance see:
 - Code of Practice on OHS Consultation
 - Audit Checklist for OHS Consultation in NSW Mines



Audit Checklist for OHS Consultation in NSW Mines

Audit Checklist for OHS Consultation for NSW Mines



NSW DEPARTMENT OF
PRIMARY INDUSTRIES

IGA-07

December 2005

References to relevant legislative and regulatory provisions do not include regulations under the Coal Mine Health and Safety Act 2002 and forthcoming regulations under the Mine Health and Safety Act 2004 (pending release in 2007). Refer to www.dpi.nsw.gov.au/mineralsafety for legislative updates.



What does “Consultation” mean and involve?

■ It means:

- Employees are entitled to a say about decisions that *may* affect their health, safety and welfare
- Employees are entitled to have their opinions valued and taken into account (before decisions taken)
- Consultation must be *meaningful* and *effective*

■ Please note that:

- Consultative mechanism will not satisfy duty
- Doesn't mean employer foregoes right to decide



When must consultation occur?

- A. Whenever a decision is to be made that may affect a person's health, safety or welfare. For example:**
- **Changes to premises, work methods, work systems, plant or substances**
 - **Undertaking or reviewing risk assessment**
 - **Developing risk controls**
 - **Looking at employee welfare**
- **NB A site check inspector (as per the CMHS Act) at a coal workplace must be a member of any OHS committee for that workplace which is required under the OHS Act**



Part 4 - Work Premises & Working Environment

- **Details specific risk controls**
- **Responsibilities of controllers of premises**
- **Who is a “controller of premises”?**
- **A person who has:**
 - **control including only limited control**
 - **responsibility to maintain or repair under contract/lease**
- **Note : CI 8 – Concurrent Responsibilities**
 - **more than one person may have a responsibility**
 - **responsibilities must be discharged in co-ordinated way**

Part 4: Work Premises and Environment (cont.)

Controllers duties for -

Fall Prevention

Electrical Safety

Asbestos

Employers duties for -

Atmosphere

Working Space

Lighting

Heat & Cold

Working at Heights

Fire & Explosion

Electrical safety

Noise

Manual handling

Confined spaces

**Long distance truck
driver fatigue**




Part 4. Manual Handling

- **A leading cause of injury in coal industry**
- **OHS Regulation gives effect to National Standard**
- **Employer must eliminate risks through:**
 - **Design, construction and maintenance of objectives**
 - **Design of work practices**
 - **Design of work environment**
- **If not reasonably practical to eliminate risks employer must control the risk via redesigning the work activity and, if necessary, must**
 - **Modify the design of objective or work environment**
 - **Provide mechanical aids**
 - **Provide appropriate manual handling training**
- **Prescribed considerations must take into account when doing Risk Assessment**



Electricity - electrical safety

- **Electricity within the OH&S Regulations 2001:**
 - **Chapter 4, Part 4.2 *Work Premises*, Division 3, Electricity**
 - **Clause 41, Electricity Particular Control Measures**
 - **Chapter 4, Part 4.3 *Uses of Places of Work*, Division 8, Electricity**
 - **Clause 64 Electricity particular control measures**
 - **Clause 65 Maintenance of records - electricity**
 - **Chapter 7, *Hazardous Processes* - Part 7.7 *Electrical Work***
 - **Clauses 205-208**
 - **Two new definitions are introduced, '*Electrical Article*' and '*Electrical Installation*', from the Electricity (Consumer Safety) Act 2004.**



Chapter 4, *Work Premises and Working Environments*

Division 3 Electricity

- **Clause 41 Electricity - particular risk controls measures. Set in absolute terms. (See also OHS Act, Sect 10)**
 - **(1) The Controller of Premises is likely to be the Operator and must:**
 - **Ensure that electrical installations are safe, and**
 - **If they are not safe, the installation must disconnect.**
 - **Installations have to be maintained and significant modifications documented.**
 - **The Clause 19 CMHSR 2006 Electrical Engineering Management Plan has to reflect this requirement.**



Chapter 4, *Uses of Places of Work*, Division 8, Electricity

Clause 64 Electricity - Particular Risk Controls

- The employer must ensure the risk from electricity is eliminated or controlled.
- See also Clause 19 CMHSR 2006
- The clause introduces two new areas of risk
 - 'construction work', and
 - 'hostile environment'.
- Clause 65 Maintenance of Records
 - Currently well established in mines



Chapter 7 *Hazardous Processes* - Part 7.7 *Electrical Work*

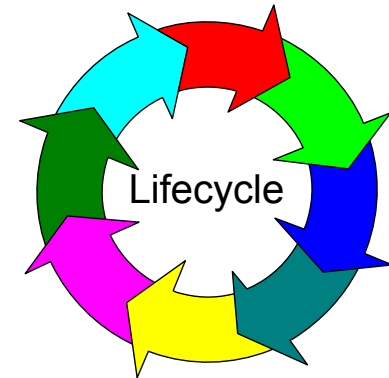
Clause 207-208 Electrical Work, Testing on Electrical Installations -Safety Measures

- Electrical work to be carried out using ‘safe work systems’.
- Electrical work must not be carried out on ‘ENERGISED CIRCUITS’.
 - But recognises certain provisions for **‘live work’**.
 - A new amendment is included, that requires **7-days notice** to the DPI before ‘live work’ is undertaken at a coal workplace.
- IEE Mine Safety Operations *does not envisage* that a situation would arise at a coal operation where the risk of harm from other matters is greater than the risk working on energised conductors. (ESS002)

Chapter 5 – Plant

Plant Alteration - Designers, obligations

- **Importers** - must ensure designers duties
- **Must identify lifecycle hazards, assess risks, review risk assessments, control risks and must consider.....**
- **Particular risk controls**
 - guarding,
 - operational controls,
 - emergency stops and warning devices,
 - powered mobile plant – operator protective structure required if risk of mobile plant overturning, object falling or operator being ejected.
 - *Earthmoving plant underground - regards to AS 2294*



Plant Alteration - Designers, obligations

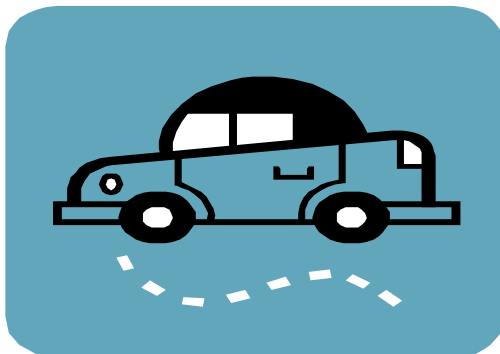
- **Mandatory design standards**
 - cranes (including hoists and winches),
- includes EWP on LHDs
- **Must specify work systems and operator competencies**
- **Plant hired must comply with designers obligations**
- **Designers Information -**
 - Manufacturer
 - Supplier
 - User
- **Manufacturer must comply to mandatory design standard for plant design before 23/12/06 as far is as reasonably practicable.**





Part 5 : Registration required for high risk plant

- High risk plant must be **registered** with the **Government**
- **WorkCover** for **General Industry Plant**
- **DPI** for **Mining Specific Plant**
- Two types of registration –
 - Registration of the **plant design (cl 107)**
 - Registration of each **item of plant (cl 113)**





Design Registrable - WorkCover

Part 1: General Plant

Examples typically found on mines

- Boilers and pressure vessels
- Gas cylinders
- Cranes > 10 tonnes
- Boom-type elevating work platforms
- Lifts
- Hoists (platform movement in excess of 2.4 m) designed to lift people
- Work boxes

Use of General Plant - Designed after 23/12/06 must not be used unless current registration, cl 136(3)



Design Registrable - DPI

Part 2: Mining Specific Plant

Underground mines

- Diesel engine systems
 - Powered winding systems
 - Booster fans
 - Braking systems on transport
 - Portable or hand-held or item used to determine or monitor the presence of gases
 - Breathing apparatus to assist escape
 - Shotfiring apparatus
 - Detonators
 - Explosive-powered tools
 - Refuge chambers
 - Conveyor belts
- **Use of** - must not be used unless current registration, cl 136(5)



Item Registrable

Part 1: General Plant

Examples typically found on mines

- Boilers and Pressure vessels hazard level A, B or C
- Lifts
- Building maintenance units
- Concrete placing units (truck mounted with boom)
- Mobile cranes > 10 tonnes

Part 2: Mining Specific Plant

- Diesel engine systems – U/G
- Powered winding systems –U/G
- Booster fans – U/G

Use of - must not be used unless current registration, cl 136(4) & cl 136(6)



Use of Registered Plant

- **Transitional arrangement stop on the 22 December 2008**
 - All specified design or item registrable **mining specific plant** must be registered or an exemption order issued after this date.

- **Automatic cancellation of registration**
 - If plant is altered – must comply with designers obligations
 - Change of person in control
 - Breach of conditions of registration



Part 5.4: Working with Plant – Particular risk controls

- **Installation, erection and commissioning of plant**
- **Use of Plant**
 - Operators receive adequate information, training and supervision
 - Plant only used for purpose it was designed
 - Safety features or warning devices used as intended
 - Plant is guarded or safe systems of work
 - Plant subject to appropriate checks and inspections
 - Plant is withdrawn from operation if immediate risk
- **Maintenance and repair of Plant**
 - Maintenance in regards to designer recommendations
 - All safety features are maintained and tested
 - Competent person to advise on extent of damage and carry out repairs
 - Repairs to within design limits
 - Isolation





Part 5.4: Working with Plant – Particular risk controls

- **Plant under pressure – AS 3788**
- **Powered mobile plant**
 - Operator protective devices used if risk of overturning, object falling, operator ejected from seat. (objects coming into contact with the operator)
 - U/G mines - earthmoving protective structures regards to AS 2294
 - Fitted with appropriate seat restraint
- **Plant designed to lift**
 - Notice specifying the rated capacity
 - Persons not lifted unless
- **Records**
- **Information**



Part 6 of the OHS Regulation

The OHS Regulation gives effect to the National OHS Standards for Hazardous Substances & Dangerous Goods

Part 6 – Hazardous Substances

- Has applied in full to coal workplaces since **November 2004**

Part 6A – Dangerous Goods

- Has applied in full to coal workplaces since **September 2005**
- Replaced relevant provisions of the (repealed) Dangerous Goods Act 1975
- Prescriptive requirements were replaced with a performance-based approach incorporating the principles of hazard identification, risk assessment and risk control



Part 6 and Part 6A of OHS Regulation

- **Represents an integrated approach to chemical management**
 - **Controls are proportional to risks – greater risk – more controls (note that previous DG provisions - one size fit all)**

- **Additional controls**
 - **Hazardous substances – exposure focus (health risks)**
 - **Dangerous goods – physical focus (safety risks)**

Note: Part 6B - Major Hazard Facilities (MHF)

- **Commenced generally in NSW workplaces on 14 July 2008**
- **Will not apply to the mining industry in the near future**



Part 7 of the OHS Regulation

- **Hazardous Processes**
- **Details specific risk controls set out for:**
 - **Spray painting**
 - **Abrasive blasting**
 - **Welding**
 - **Electroplating**
 - **Molten metal**
 - **Lead risk work**
 - **Electrical work**



Part 8 Construction Work

■ “Construction work” defined by Clause 3

1. Excavation (other than for mining related purposes)
2. Building
3. Civil engineering

■ Details risk controls for Construction work eg

- Overhead protective structures
- Raising and lowering materials
- Formwork
- Prevention of Structural collapse

- Excavation work
- Demolition work
- Work with asbestos
- Diving



Part 8: Special Arrangements – Construction

- **Special arrangements for certain construction work**
 - ▶ **appointment of a principal contractor**
- **Generally, this part of OHS Regulation unlikely to be applicable to coal mining workplaces.**



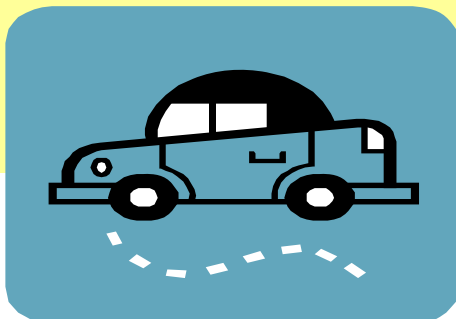
Part 8: Induction Training - Construction

- **Specific OHS Induction Training requirements for construction work**
- **OHS Reg provides for 3 levels:**
 - **Level 1 - General (common industry risks)**
 - **Level 2 - Work Activity (specific risks related to particular activity eg formwork)**
 - **Level 3 - Site specific risks**
- **Training must address training topics set out in**
 - **“Code of Practice—OHS Induction Training for Construction Work”**
- **WorkCover General Construction Work Induction Card:**
 - **provides evidence of a person having completed Level 1.**
 - **will be required unless mine’s site induction satisfies certain requirements**
- **Level 2 - Work activity induction training - will not be required**
- **Level 3 – Training topics should be covered by mine’s existing site training**

Part 9 of the OHS Regulation

■ Certification Licence for High Risk Work

- Persons must hold a Licence (**National Certificate of Competency**) for certain high risk work
- Certificates issued by WorkCover for the NSW Government
- Persons must obtain certificates by **1st September 2009**



....Just like getting your
driver's licence!!!



Part 9 : Work requiring a Licence

■ Operation & use of:

- Cranes
- Hoists
- Boilers
- Steam turbines
- Reciprocating steam engines
- Truck mounted concrete-placing booms


■ Undertaking of:

- Scaffolding
- Dogging
- Rigging
- Application of pesticides
- Use of fumigants



Part 9 : Certain work will not require licences

- For general industry, the OHS Regulation says that you need a licence to operate “load shifting equipment”
- Load shifting equipment includes
 - fork lifts
 - draglines
 - excavators
 - front end loaders/backhoes
- OHS Regulation requirements to hold a WorkCover licence for load shifting equipment will NOT apply at this stage
- Part 9.2 of the OHS Regulation will also NOT apply at this stage



Part 9 : Process for obtaining a Licence (Certificate of Competency)

- What you get : **Pocket-sized plastic photo licence**
- Applicants for a Licence will need to provide :
 - ‘Notice of Satisfactory Assessment’ (NSA) post 4 Sept 2006
 - Passport size photograph and evidence of their identity.
- Applications must be lodged at an Australia Post [Bank@Post](#)
- Licences will be valid for up to five years & cost \$65 per class
- Non-photo licences issued since 29 March 2004 will expire five years from the date of issue.
- For more information go to www.workcover.nsw.gov.au



The OHS Regulation: **Parts 10, 11 & 12**

■ Licensing

■ Permits

■ Notification

- **Part 10** – certain businesses must be licensed
- **Part 11** – certain work requires permit
- **Part 12.1 & 12.2** – Incident notification – **DOES NOT** apply
- **Part 12.3** – Notification of certain work

All notifications to DPI – Workcover issues licences and permits



Part 12 of the OHS Regulation

- **Exemptions**
- **Part 12.4**
- **Exemptions for particular person**
- **Exemptions for classes of persons or things**



Codes of Practice

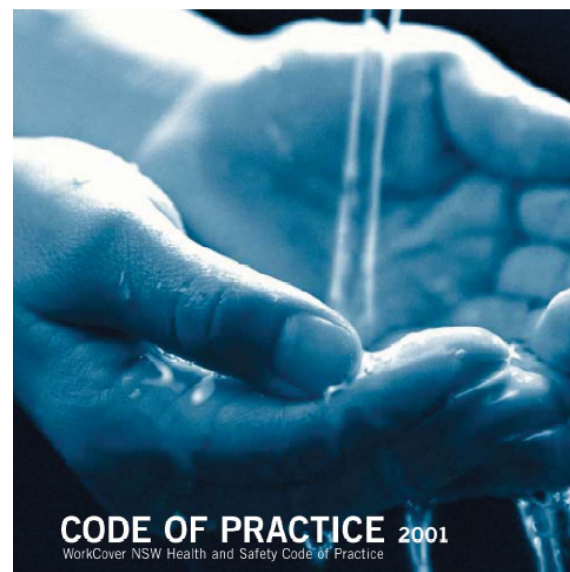


Codes of Practice

- Codes of practice provide practical advice and guidance
- They help you achieve the standard required by Act or Regulation



WORKPLACE AMENITIES





Codes of Practice

- **Failing to observe a code of practice is not an offence**
- **If you choose not to follow a code, safety arrangements must be in place which achieve a equivalent or better standard of safety.**
- **Failure to follow a code can be used as ‘prima facie’ evidence of a breach.**
- **Codes are admissible as evidence in proceedings**



Codes of Practice


- **Industry has an input to development of codes**
- **Codes are developed on a collaborative and consultative basis**
- **Provide feedback**



Codes of Practice

- **Current OHS codes of practice:**
 - **Workplace amenities**
 - **Control of workplace hazardous substances**
 - **Storage and handling of dangerous goods**

- **Another 21 codes of practice will be applied when the OHS Regulation is extended**



OHS Act Codes – Consultation, Working Environment, Dangerous Goods & Haz Subs

- OHS consultation
- Manual handling
- Noise management and protection of hearing at work
- Work in hot and cold environments
- Control of work-related exposure to hepatitis and HIV
- Material safety data sheets (supplier duties)
- Prevention of occupational overuse syndrome
- Safe handling of timber preservatives and treated timber
- Safe use of synthetic mineral fibres
- Labelling of workplace substances
- Safe use of pesticides

OHS Act Codes – Construction work (Part 8)

- Amenities for construction work
- OHS induction training for construction
- Formwork
- Excavation
- Moving plant on construction sites
- Safe work on roofs - commercial and industrial
- Safe work on roofs - part 2 – residential
- Electrical practices for construction work
- Mono-strand post-tensioning of concrete buildings
- Cutting & drilling concrete and masonry products



Codes of Practice

- ✓ **Codes provide practical advice and guidance**
- ✓ **Alternative courses of action require the same or a better standard**
- ✓ **Codes available on Mine Safety website**



Summary : How to access information

Following Information available on DPI website

- OHS Act and OHS Regulation
- Summary Guide to OHS Regulation
- Codes of Practice
- DPI Guidance material
- Audit Checklists

www.dpi.nsw.gov.au/minerals/safety/legislation/coal-mines

Summary: When to talk to DPI and WorkCover

What DPI does:

- ▶ **The Regulatory Authority for OHS Act and CMHS Act in mining workplaces**
 - Principal contact point for mining industry
 - Provides advice to industry
 - Ensures compliance with laws
 - Administers parts of OHS Regulation



What WorkCover does:

- ▶ Administers parts of OHS Regulation for DPI:
 - Registers Schedule 1 “General” Plant (Chapter 5)
 - Issues Construction Induction Certificates (Chapter 8)
 - Issues National Certificates of Competency (Chapter 9)
 - Issues Licences for certain business (Chapter 10)
 - Issues permits for certain work (Chapter 11)





OHS Regulation Summary: What starts when

■ What applies now?

- Numerous parts of OHS Regulation
- (See schedule 4 OHS Regulation)

■ From 1st September 2008

- Generally the rest of the OHS Regulation

■ From 1st September 2009

- National certificates of competency




.... DON'T FORGET YOUR RISK ASSESSMENT?



Thank you.

**Good Luck
with the
new legislation!**



2008 Review of the Coal Mine Health and Safety Act 2002

- **The *Coal Mine Health and Safety Act 2002* was passed by Parliament on 16 December 2002.**
- **Parliament requires a statutory review to be undertaken now**
- **Minister will report to Parliament by December 2008**
- **The review will examine:**
 - Whether the Act is meeting its objectives;
 - Can parts of the Act be simplified to improve ease-of-understanding and compliance
- **Additional information and a call for submissions will soon be made through the NSW DPI web site and advertised.**



Questions



Questions?