



NSW DEPARTMENT OF
PRIMARY INDUSTRIES



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

Coal Mine Safety – Legislation Implementation

December 2006

Nomination of Operators & Duties, CMHS Act & Regulation



Nomination of Operators

- New definitions: (Part 1 CMHS Act 2002)
 - Colliery holder – a person who has the right to mine.
 - Operator – is a colliery holder or person nominated by colliery holder who is the employer with day to day control.

- Duty of colliery holder to nominate the operator: (Part 5 Section 17 CMHS Act 2006)
 - Must not undertake mining until operator is nominated.
 - Can nominate an operator for each separate and distinct operation within the colliery holding.
 - Nomination must be in the prescribed form.
 - Chief Inspector may reject a nomination. The colliery holder remains the operator until nominee approved.
 - CMHSR Part 12 makes transitional provisions that allow 2 months for nomination. During this time the mine “owner” (under CMRA 1982) is the operator.



Nomination of Operators

All colliery holders have a duty to nominate an operator

- The nomination must be in writing and include at least the information specified in clause 7 CMHS Reg 2006, i.e.
 - Name of the coal operation, e.g.
 - “ABC” Colliery or Underground Coal Mine
 - Name of colliery holder who has the right to mine for coal or carry out coal mining purposes on the colliery holding which is registered in accordance with s163 *Mining Act 1992*.
 - Name of the operator
 - In most cases a corporation that is the employer with day to day control of the coal operation.
 - In very few, if any, cases a natural person who is the employer with day to day control of the coal operation
 - Operator’s Australian Business Number (ABN)
 - Details of relationship between the colliery holder and nominated operator, e.g.
 - Organisation structure showing colliery holder and operator
 - Related joint venture companies
 - Contractor operator
 - Chairpersons, Directors and Company secretaries
 - Senior management



Nomination of Operators

■ Contact Details

- Identity and contact details of the primary contact who is a natural person who is normally at the coal operation
- Identity and contact details of the alternative contact, who is a natural person who is normally at the coal operation
- Detailed explanation of basis that the nominated operator is considered the employer with day to day control of the coal operation including, but not limited to
- the signature of the colliery holder or person authorised to sign on behalf of the colliery holder
- the signature must be described by the name of the person who signs and either as colliery holder or the position held by the person authorised to sign on behalf of the colliery holder.

■ More than one Coal Operation

- “Separate and distinct” means
 - Coal operations have physically separate facilities, infrastructure and services
 - Management and supervision employees have clearly different management systems, control and responsibility as described in our work instruction guidance
- Provide all information as described above
- Provide a signature as described above



Duty of Operators

- Health & Safety Management Systems (HSMS) (Part 5, Division 2, Subdivision 1 CMHS Act 2002)
 - Section 20 Operator to prepare HSMS
 - Section 21 No mining without a HSMS
 - Section 23 prescribes the contents of a HSMS
 - Must contain basis for hazard identification, assessment, control & implementation processes.
 - Must contain system elements, major hazard management plans, management structure, contractor management & prescribed CMHSR requirements.
 - The CMHS Reg 2006 (Part 2 Division 2) prescribes additional information covering an inspection program, information & communication arrangements, supervision, monitoring, electrical & mechanical engineering management plans and ventilation arrangements.
 - CMHS Reg 2006 **Part 2** makes transitional provisions for inspection program and withdrawal arrangements of 6 months.



Duty of Operators

- Emergency management systems (EMS) (Part 5, Division 2, Subdivision 5 CMHS Act 2002)
 - Section 44 “*Emergency*” exists if a situation is not envisaged or not controlled by a HSMS and there is a threat to life of people in or outside a mine.
 - Section 45 Operator to prepare EMS
 - Section 46 No mining without a EMS
 - Section 47 prescribes the contents of a EMS
 - Must contain up-to-date plans.
 - Must address risks associated with control failures including location of people, equipment, communication and facility arrangements, emergency personnel structure & competency requirements and testing procedures.
 - The **CMHS Reg 2006 (Division 5)** prescribes additional matters to be addressed relating to fire and emergency provisions above and below ground including escape and rescue and fire fighting plans.
 - **CMHS Reg 2006 (Part 12)** makes transitional provisions for escape and rescue plans of 6 months.



Duty of Operators

- DPI legislative compliance audits
 - Site assessment documents to focus on health & safety management plans and workplace compliance.
- Effectiveness of plans and systems
 - Audit results to be analysed to target improvements in high risk activities.
- Priorities
 - Wran Mine Safety Review
 - CMH&S Regulation
 - audit and compliance review after two years
 - Contractor management plans
 - take enforcement action commensurate with the gravity of any breaches of the contractor management provisions
 - conduct major audit of the practice, performance and compliance after two years
 - HSMS Assessments
 - Specific consultation with the workforce
 - Representation mechanisms, consultation and input to risk assessment.
 - Site visits to discuss with workers and representatives,