



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

The legislative reform journey



The legislative reform journey

- Commencement of Coal Mines Health & Safety Act 2002 will see repeal of Coal Mines Regulation Act 1982
- Objectives
 - *Process* towards closer alignment with OHS Act & OHS Reg
 - Clarify & bring greater certainty to where duties located through nomination of who is the employer in control – “Coal Operator”
 - Regulatory regime that supports and encourages health and safety management systems
 - Move from “approvals” to “notifications” and “registrations”
- New regulation based on extensive industry consultation
- Consultation on regulatory framework to continue into 2007



Structure of CMHS Regulation

- **Part 1 – Preliminary** (Meaning of risk control & Concurrent responsibilities)
- **Part 2 – Duties** (Nomination of coal operator, Health and Safety Management systems, Major hazard management plans, Contractor management, Notification requirements for high risk activities)
- **Part 3 – Notifications**
- **Part 4 – Specific risk controls**
- **Part 5 – Licensing requirements**
- **Parts 6&7 – Competency Standards & Coal Competence Board**
- **Part 8 – Check Inspectors**
- **Parts 9&10 – Exemptions & Miscellaneous** (Injury reporting, record keeping, appealable matters)
- **Schedules 1 – 2** (Scope and transitional arrangements)



Extension of OHS Regulation 2001 to the mining industry

- OHS Act 2000 applies now (in full)
- OHS Act (& OHSR) take precedence over CMHS Act & Reg.
- OHS Regulation 2001 (OHSR) applies now (in part)
- OHSR details duties with respect to:
 - Risk management (Chapter 2)
 - Workplace consultation (Chapter 3)
 - Specific risk controls (inc application of Nationals Standards to NSW eg Plant, manual handling, haz subs, dangerous goods etc)
- Proposed to apply OHSR (in full) from early – mid 2007
- Discussion Paper to be released for public comment beforehand
- Public Comment invited on application of OHSR & unintended consequences (of interface with CMHS Act) but not content.



See Schedule 4A

OHS Amendment (Coal Workplaces) Reg 2006

Applies Chapter 5 (Plant) of the OHS Regulation 2001

- Chapter 5 gives effect to the National Plant Standard
- Duties – designers, manufacturers, suppliers, hirers & users of plant
- Includes requirements for design and item registration (specified classes)
- Registration now required
 - DPI (high risk - mining specific plant)
 - WorkCover (high risk - general industry plant)
- Amending Reg applies cl 18 & 19 (Amenities) of OHSR
- Amenities Code of Practice made under OHS Act now applies
- NB CMHSR – requirement for on site records for certain classes of plant



Timetable – Principles

Transitional arrangements are extensive

They are set out in the Regulations – see:

- *Coal Mines Health and Safety Regulation (Schedule 2) &*
- *OHS Amendment (Coal Workplaces) Regulation 2006*

CMHS Act - Transitional principals

- **Legislation commences upon gazettal**
- **Existing duties continue upon commencement**
- **New duties (in effect) have “delayed commencement”**
 - *Sch 2 of the CMHSR provides that for certain sections of the CMHS Act, a person is not liable for an offence for any act or omission prior to 1st July 2007*



Timetable continued (2):

- For selected matters (eg prepare “Hazard Management Plan”) existing “rules/systems” that meets existing law is deemed to satisfy the new legislation for 6 months
- The CMHS Act locates most duties with the employer “in control” of the coal operation – referred to as the “coal operator”
- The Regulations require that the “coal operator” must be appointed by the colliery holder within 2 months of the commencement of the legislation



Timetable continued (3)

OHS Amendment (Coal Workplaces) Regulation 2006 (Sch 4A)

- OHS Amendment Reg commences from date of gazettal
- Duties with respect to plant and amenities apply immediately
- Code of Practice on Amenities (OHS Act) applies immediately
- Classes of high risk plant presently subject to approval with DPI are now subject to registration with DPI immediately
- Pieces of plant already approved with DPI must be registered with DPI within specified periods (of up to 2 years – consult Regulation)
- Plant registrable with WorkCover must be registered within 6 months