

To: Safety Division, Department of Mining, Industry Relations and Safety

Re: Work Health and Safety (Mines) Regulations

28 May 2021

Introduction

AMEC appreciates the briefing we received on 17 May 2021 from Dr Ivor Roberts, Executive Director Regulatory Support Division, Safety Regulation Group, and the team driving the WHS reforms at the Department of Mines, Industry Relations and Safety (DMIRS). This briefing and other meetings between AMEC with the Minister, State Mining Engineer and Department, have provided important opportunities to provide meaningful feedback to the reforms that will underpin the way our Industry's safety requirements are regulated into the future.

About AMEC

The Association of Mining and Exploration Companies (AMEC) is a national industry body representing over 375 member companies across Australia, with the majority having project interests in Western Australia. Collectively, AMEC's member companies account for over \$100 billion of the mineral exploration and mining sector's capital value.

The mining and exploration industry make a critical contribution to the Australian economy, employing over 255,000 people, and in 2018/19 collectively paid over \$39 billion in royalties and taxation. In 2019/20 resources companies invested \$35 billion in new capital and generated more than \$176 billion in mineral exports. \$2.8 billion was spent on minerals exploration in 2019/20, representing an 18% increase from the previous year.

WHS Regulations

General feedback

AMEC appreciates the broad consultation DMIRS has offered to Industry as the new legislative framework that will underpin our safety practices into the future is developed and implemented. Maintaining the safety of our workers and workplaces is Industry's number one priority. Western Australia is known for having a heavily regulated mineral exploration and mining sector, with stringent safety protocols in place. It is important that our workforce is enabled to meet safety criteria, and our ability to do so, is dependent on clear, practical, best-practice regulations and guidance materials, statutory and non-statutory, from the Department. A robust regulatory framework that enables this, through risk-based regulation, is contingent on holistic consultation across the sector.

As reforms continue to progress, and more codes of practice (COPs) are drafted, AMEC requests continued consultation to ensure there are no unintended consequences arising from any amendments.

Codes of Practice

AMEC has continued to highlight the importance of developing COPs which will be ready from the date the Regulations commence. The submission we provided through MIAC, outlined our recommended priority order for the development of these COPs. This list has broadly been agreed by the Department representatives we have met with, and other industry bodies. It is crucial to the successful operation of the new Regulations, that these COPs receive Parliamentary Counsel priority for drafting and consultation.

It was an important amendment to acknowledge that given many contractors do the same work across all mine sites for the company they are contracted by, that Mine Safety Management Systems (MSMS) can be written at an enterprise-level (company or Person Conducting a Business or Undertaking-wide), rather than only at a site-level. For example, crane companies could use the same MSMS across multiple mines, approved by the mine operator, rather than needing to prepare a specific MSMS per mine site. For specialised tasks, it is understood a MSMS will be developed by the contractors, but the general principles and risk management approach will be consistent with the standard of the mine operator.

The requirement for MSMS at new mines to be reviewed within 1-year to allow consultation with workers / Health & Safety representatives, should be amended to allow this review within 1-year from implementation, so a clear understanding of how they are working can be obtained.

Remote Operation Centre (ROC)

The proposal that any ROC that is not located on a mine, and used to operate or control equipment at the mine is not to form part of that mining operation, raises the questions of jurisdictional scope. If a ROC is located in an alternate jurisdiction, not within WA, will the WA laws still apply to this ROC, or will they be regulated against the jurisdiction in which the ROC is physically located? As more operations shift towards being autonomous, this question is likely to remain a concern.

As the ROC falls outside the definition of mine and mining operation, and the Site Senior Executive (SSE) is not necessarily responsible for these ROCs, it is important to acknowledge that while the ROC is running operations at the mine of which the SSE is responsible, there will possibly be a crossover of responsibilities.

Definition of Mine Operator

AMEC notes the Minister's proposal to retain the definition of mine operator, similar to the definition of 'principal employer' in S.4 of the *Mines Safety and Inspection Act 1994* (MSIA), and the intent to align this definition with the amended details of who can be a principal employer, per subsection 32(3) of the MSIA. It is noted that within these definitions, there is no reference to PBCU.

Industry requests the opportunity to consider this definition when it has been released in its entirety. Currently, the drafting instructions state it will be similar to other definitions, but when it has been drafted there should be an opportunity to ensure expectations align and there are no unintended consequences that will arise from the alignment of these definitions.

A broader definitional question that arose during the initial consultation phase that does not appear to be addressed, was what constitutes "in the vicinity" of a mine site?

Experience requirements for supervisors

During the initial consultation, questions also arose about the intent behind the requirement for supervisors to have two-years' experience. There was clarity requested as to whether this two-year requirement was intended to be experience at a supervisory level, or experience on a mine site only, not necessarily at a supervisory level.

The proposed guideline should be consulted on and released prior to the introduction of the Regulations. The examples provided for process plant operations where 'any similar operation will suffice' and underground supervisors where 'details are in the Regulations similar to MSIA/R' are quite broad. We request further clarification across the range of supervisory positions on different mine sites, to gain a clear understanding of the amendments, particularly as Automatic Mutual Recognition laws are set to commence in July 2021.

Risk management competencies

AMEC requests for industry to be consulted and engaged as the competencies for each of the statutory positions is finalised by the advisory committee. We understand that in order for a course to be approved by the Committee, it must be nationally accredited.

Given the large number of expected staff that will need to be booked onto training courses to meet the new competencies for each statutory position, and the availability of suitable courses, a three-year transition period is supported. However, if at a certain point during this transition phase there is a backlog which has the ability to halt operations, opportunity to review this period should be available.

Final comment

AMEC continues to welcome opportunities to engage with the Department as regulatory reforms are undertaken. As reforms progress to improve the health and safety of our workplaces and our workforce, it is important that due consultation occurs, with suitable industry representation.

AMEC looks forward to continued engagement with the Department, and again offers to hold workshops between regulators and the Industry, to ensure expectations align and the transition to the new Regulations is smooth, and does not in any way compromise the safety of our staff, workplaces, or operations.

For further information contact:

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