

Submission form

98 *Safe mines: safe workers*

These questions are prompts only, designed to help you focus your response. You don't have to answer every question and you are welcome to provide additional comments.

We've also asked you for a few personal details, which will help us analyse the submissions. You don't have to provide any information you don't want to.

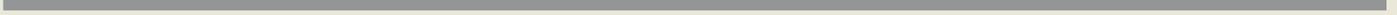
See "How to have your say" on page six of the discussion document for ways to complete and send in this submission. The deadline for all submissions is 1 July 2013.

The Ministry intends to post all written submissions on the website at www.mbie.govt.nz, except for any material that may be defamatory. Please tick if either of these apply:

- I do not give permission for my name to be listed in any published summary of submissions
- I do not give permission for my submission to be published online

Your submission may also be requested under the Official Information Act 1982. If you object to part or all of your submission being made available, the Ministry will take this into account when responding to requests under this Act.

- I would like these parts of my submission to be withheld and for these reasons:



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CONTACT DETAILS

Name:

Address:

Email:

Organisation (if applicable):

Position (if applicable):

I am making this submission:

- As an individual
- On behalf of a group or organisation (please specify)
- Other (please specify)

My background or interest area is/I represent the following industry sector (please supply more details as appropriate. You can select more than one category.):

- Member of the public (note any special interest area)
- Mine worker
- Pike River family member
- Member of a mining community
- Mine manager or operator
- Mining contractor
- Quarry operator
- Tunnelling operator
- Union or union representative – mining
- Union or union representative – other industry
- Mining association
- International mining industry (please specify country and specialist area)
- Employer association
- Industry training organisation
- Other non-government agency (please specify)
- Other high hazard industry (e.g. agriculture, forestry, petroleum and minerals, fishing, construction, manufacturing) and your role (where appropriate)
- Other (please specify)

Broadening the Royal Commission's recommendations: what we propose

- The new regulatory regime covers the mining industry generally, not just underground coal mines.

1. Do you agree with the proposed coverage of the mining industry? What changes would you suggest, and why?

No.

The proposals contained in “safe mines: safe workers” Volumes 1 & 2 do not, we believe, meet the concept of best international practice for the above ground mining operations, more especially in relation to the Quarry Industry in New Zealand.

The number employed in the quarry industry ranges in size from 2-3 employees through to a

maximum of 30 per site, with an average of around 8. These numbers of employees per site, we understand, is considerably lower than those employed in a coal mining operation in Queensland, on which these proposals are based. In Queensland there is also the Queensland Metalliferous Mining Regulations which are the regulations that the quarries in the state are regulated on.

It is the Quarry Industry's opinion that these would have been more likely to meet the best international practice for the NZ Quarry Industry, had they been considered.

Quarry operations in NZ range from "hard rock" extraction through to river sand & gravel extraction sites.

This MBIE proposal identifies that certain quarries will be "in scope" and these sites will be regulated under these new proposals. The criteria for this will in fact target upwards of some 80 operations, whilst excluding the other 90%+ of quarries in NZ.

It is our opinion that any new regulation should be applicable to all quarry sites in NZ, no exceptions.

We believe that a much clearer definition of a quarry is included in the "Tunnels and Quarries" Act 1982. This Act in conjunction with the "Quarries Regulations" (1983) were only repealed when the "Health & Safety in Employment Act (1992)" came into being.

The 1982 Act & 1983 Regulations were more than applicable for the quarry industry at the time having been formed from the history of the industry over the preceding decades. The Inspectorate of the day used these to ensure that all quarries were compliant with these regulations.

The Quarry Industry is willing to assist government with reviewing the 1983 Quarries Regulations and upgrading these to meet all the requirements of the Royal Commission of the Pike River Coal Mine Tragedy. We believe that being quarry specific (and therefore applicable to all quarry operations) will remove any ambiguity from adapted Coal Mining regulations.

In the MBIE proposal the definition of a "Principal Hazard" is one where there is the potential for "multiple fatalities". It is the understanding of the Quarry Industry that there has never been a "multiple fatality" in any quarry for at least the past 30 years if not longer.

- 2. In particular, do you agree with the proposed features for tunnels and quarries that would be covered by the new regulatory framework? What changes would you suggest, and why?**

No.

The Quarry Industry believes that the industry should have its own set of regulations (as outlined in question 1) that covers all extractive operations as defined in the "Quarries & Tunnels Act" (1982). In this Act there is also a very clear definition of a tunnel and what constitutes a tunnel.

The Table on page 29, Vol. 1 needs revision to distinguish between the two (tunnels / quarries) and which appointments are required at each.

3. In making your submission on the proposals in this chapter you may wish to refer to the proposed definitions for mining operation, tunnel, quarry, and mine worker, which are set out in technical appendix four (located in volume 2).

The Health and Safety in Employment Act (Mining Administration) Regulations 1996 also has a definition for a quarry and a tunnel.

Previous Acts and Regulations, particularly the Quarries and Tunnels Act 1982 and the Quarries Regulations 1983 (both since repealed) gave concise definitions regarding many of the aspects that current legislators are considering.

Regrettably, in subsequent revisions of legislation (HSE Act 1992), many of the sound clauses in these Acts were inadvertently excluded/ or not included with appropriate updating, resulting in a situation for the extractive industry which the current proposals are now trying to amend, based on Queensland Coal Mining Regulations.

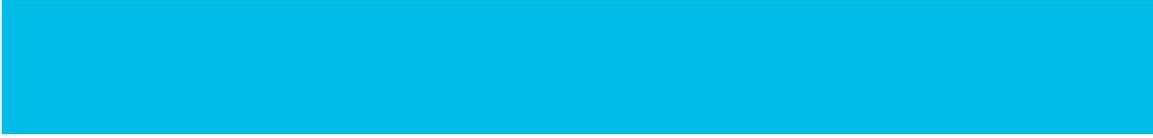
It is our opinion that the Queensland Coal Mining Regulations are unsuitable for the majority of above ground extractive operations (in our case the Quarry Industry). Updated extracts from previous regulations (that also include the recommendations from the Royal Commission of the Pike River Coal Mining Tragedy) more than adequately meet the requirements for our industry that the legislators are seeking to achieve, namely a safer workplace and industry to work in.

A new regulatory approach: what we propose

100

- **A new set of regulations for the mining industry**
- **Processes for managing hazards, and necessary controls, will be set out in regulation**
- **All mining operations must have formal health and safety management systems**
- **New safety critical positions are established**
- **Increased involvement by the regulator**

- **A mining sector advisory group is established.**



A new regulatory approach, with stronger hazard and risk management

4. Do you support the proposals to require principal hazard management plans and principal control plans?

Yes. The Quarry Industry certainly has “Principal Hazards” that need to be identified and have appropriate principal control plans for these hazards. However, they need to be constructed so that they reflect the hazards applicable to the individual operations. In short, all sites, no matter how small, are included. Some will have high hazard potential others low.

Again it should be noted here that the Quarry Industry has not had a “multiple fatality” in the industry for at least 30 years. “Multiple Fatalities”, two or more, is the term used as the definition of a Principal Hazard.

5. Are the requirements for the preparation of principal hazard management plans and principal control plans clear enough to enable mine operators to prepare these plans? What changes would you suggest?

No. The Quarry Industry believes that the Queensland Coal Mining Regulations overlaid on NZ Quarry Industry do not match the requirements properly to reflect the NZ Quarry Industry. However, as already mentioned updating of the 1983 Quarries Regulations would achieve the desired outcome from the RCPRCMT.

6. **Have we focused on the right hazards? What changes would you make to the list of principal hazards?**
Yes but there are some site specific differences between underground and above-ground activities.

7. **Have we focused on the right controls to be subject to principal control plans?**
Yes. Although they do require differentiation between underground and surface.

8. **Do you agree with the proposed strengthened minimum standards (set out in technical appendices two and three)? What changes would you suggest?**
Yes we agree in principle but again the underground mining operations in the current proposals are dominant. Again we believe that new regulations must to apply to all surface operations, in our case all quarries, that are offering material for commercial gain.

9. **Do you agree with the proposed processes for managing principal hazards (set out in technical appendices two and three)? What changes would you suggest?**

Yes in principle but again as proposed there is a too heavy reliance on underground mining specifics versus above ground operations. The difference between underground mining and above ground extractive operations, in our case quarries, needs to be clearly differentiated.

10. **Do you agree with the new enforcement powers for mines inspectors?**

Yes but again the risk based approach should apply to all above ground extraction activities. The current *ACC Workplace Safety Management Practices Audit Standards* program by way of example, provides an excellent audit format for both auditor and those being audited.

11. **Do you agree with the proposed transitional arrangements? Are there any transition issues that we have missed?**

No. The number of "Life Time Licence Holders" is currently unknown, although the Quarry Industry believes that there may be up to 500 in the Quarry Industry alone. Of this, the actual number still practising and active in the industry is unknown. However, those that are still in the industry will have between 20 -30 years experience, which no industry would like to potentially lose in one hit.

The three year time frame indicated for the transition could lead to an overload of the industry training providers, Board of Examiners Examination Panel trying to meet the three year time frame proposed. If all those who are on the current five year renewal for their "Certificate of Competence" are added in, this could result in the Examination Panel meeting every second day for the three years with no guarantee that they will adequately cover everyone.

The Quarry Industry would propose that the transition period be changed to five years as per current Certificate of Competence holders. Also, for the Life Time Licence Holders, receive further training to fulfill the recommendation of the RCPRCMT, and then retain the Life Time License, as the vast majority will be nearing or will have already reached retirement. This would then allow those with extensive industry experience to remain and pass on their collective knowledge to those coming into the Quarry Industry.



12. **In making your submission you may wish to comment on the technical appendices for this chapter.**

Fundamental to our industry is the definition of Quarries which we believe should be incorporated in the proposed legislation. An updated 1983 Quarries Regulations, which has a clear definition of a Quarry and a Tunnel is the proposal of the Quarry Industry. These were based on international best practice at the time and are still referred to within our industry. Some updating is required for which our industry would be happy to contribute.

103

Safety critical roles for mining operations

13. **Do you agree with the proposed functions and duties of the new and expanded safety critical roles? Why, why not? What would you change?**

Yes but again as drafted, many do not apply to the above ground extractive industry. Underground coal mining regulations that cover different sources of ignition for example, are not relevant in above ground extractive activities.

The competency requirements detailed on page 39, Volume 1 of the discussion Document, are inappropriate for the scale of operations in our Industry.

The Quarry Industry agrees that there is a role for a “Ventilation Officer, Electrical Engineer & Mechanical Engineer” in underground mining operations. However, for the above ground extractive operations, and for our part the Quarry Industry, the vast majority of electrical and mechanical operations can be carried out by suitably qualified industrial trained electrical and mechanical tradesmen, most of whom operate on a contractual, “as required” basis, rather than a full time - commensurate with the relatively small scale of our industry.

14. Is the role of a site senior executive (SSE) relative to that of mine manager clear and, if not how could we clarify this?

This depends on the scale of operations – 100's of employees verses relatively few. Again we make the point that most quarry sites in NZ do not employ large numbers of people (see question 1) which is perhaps unique to NZ and in particular compared to above ground extraction operations in Australia.

We recommend that the current A & B Quarry Manager Certificates with the addition of the appropriate H&S unit standards which include the appropriate unit standards are a sufficient model for individual site "SSE's" for all quarry operations. This is an established system within the Quarry industry and it works very well.

15. **Should an SSE be able to be responsible for more than one mine site?**

No. Again the proposed model seems to be drawn around large scale operations. While it is true that some Quarry companies in NZ own more than one site, they are in reality, in the minority, with their individual sites varying considerably in scale.

It again is our view that individual sites be governed by a Manager who holds either an A or B Certificate depending on the scale of operation as is currently the practice.

However, the recommendation that one person can be a SSE for an adjacent site does not show what adjacent means. Some larger quarry businesses have multiple sites, which can be 20, 50 or even 200kms apart.

In this regard the definition of “adjacent” need to be re-examined as it is our interpretation is that it currently means “adjacent to or backing onto” another site.

104

16. **Do you agree with the proposal that, in certain circumstances, a person can hold more than one safety critical role? In particular, do you think it is appropriate that a mine manager also hold the role of SSE?**

Yes. Addressed in (15) above.

17. **In making your submission you may wish to comment on the technical appendices for this chapter.**

Again the overlay needs to consider the NZ context which is different than that in

Queensland or the rest of Australia.

Establishing a mining sector advisory group

105

18. Do you support the establishment of a mining sector advisory group?

Yes. Providing that the quarry industry via the AQA and IOQ are directly represented. There should be an underground mining sector advisory group and a surface mining sector advisory group. The surface advisory group would be used to maintain and advise on the revamped Quarries Regulations.

19. Do you agree with the proposed functions of the group? What changes do you suggest?

As per 18 above



20. **Do you agree with the proposed membership of the group? What changes do you suggest?**

Yes, but clarification is required on the role of MINEX – on which there must be AQA/IOQ representatives. The surface mining advisory group to have IOQ/AQA representation.

08

Training and qualifications: what we propose

106

- **Competency requirements for all safety critical roles are set out in the mining regulations**
- **There are minimum training requirements for mine workers**
- **An independent board sets the standards and examines mine workers' competency**
- **Mine managers have formal training in risk management and health and safety**



Competencies for safety critical roles in the mining industry

21. **Do you agree with the proposed competencies for safety critical roles in the mining industry? If not, why not? What changes do you suggest?**

No. They are not applicable to the above ground extractive industry for reasons outlined above, namely the ventilation officer, electrical engineer and mechanical engineer (see comments on question13).

22. **What level of qualification should an SSE have and should this differ depending on the type of mining operation?**

It depends on the size and scale of the operations. The majority of the quarry sites can be covered by A or B grade qualifications, upgraded with additional requirements not already included for the above ground extractive industry

23. **What should be the minimum training or competency requirement for mine workers?**

A Level 2 comprehensive introduction should be the minimum via MITO, with 12 months to complete for new employees. This should only apply to operational staff, with Admin and weighbridge personnel being excluded providing that they do not operate any equipment on site at any time. The minimum training should be a qualification (Level 2) and not a CoC, which requires a five year renewal for CPD. Although all quarry workers have a H&S responsibility, it is the Quarry Manager who has overall responsibility to ensure that all employees work safely.

24. **How do you think the competence of existing workers should be assessed to ensure that they meet the new minimum requirements? What transitional arrangements should apply?**

Recognition of existing qualifications issued by EXITO/MITO, as well as recognition of prior learning via length of service in the industry.

Every new operational person needs to achieve a Level 2 qualification within 12 months of commencing employment. This is subject to MITO being able to provide all the required training and notification of new staff must be made to MITO by the employer.

25. **Should we introduce “human factors” into the competency requirements for safety critical and general management/supervisory roles in mining operations? If so, for which roles should this requirement be introduced?**

Yes in principle. There is a place for this particularly for constant reoffending and the reasons driving it. But also just as importantly, with regard to

complacency on safety issues for longer term operational employees who from studies made, can tend to become blasé and start “cutting corners”.

Further thought therefore needs to be given on how such an initiative should be introduced and what structure and content is required.

A lower level could be included in the introduction level (see question 24) for new employees and current employees. In addition a higher level (say level 4) could be available for all supervisory and management level employees.

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26. **We currently have separate certificates of competency for underground and opencast mines, tunnels and quarries, although some of these have the same or similar unit standards. Do you favour consolidating the certificates of competency where practicable?**

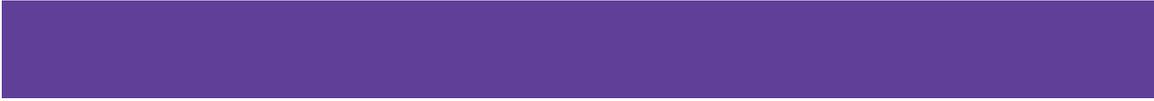
No. We strongly believe there need to be a clear distinction between underground mining operations and surface operations.

27. **Are the transitional phase-in provisions for the new competencies reasonable? Are there any transitional issues that we have missed?**

As stated in (23 above), we believe 12 months is appropriate for new employees, with those holding current CoC documents ("A" Grade etc.) renewed on a five year roster as is the current renewal conditions with the ITO.

28. **In making a submission on this chapter we also welcome your feedback on the more detailed proposals in technical appendix seven.**

There are some tables which need further consideration eg they do not distinguish between underground supervisor and surface supervisor. Page 118 in Appendix 2.



A board of examiners providing greater regulatory oversight

29. **Do you agree with the proposed functions for the board of examiners? Is there anything you would suggest that we do differently?**

Yes, however, this needs clarity with regards to the role of the Board of Examiners as compared to an Examination Panel. Also, it must have quarry industry representation on the examination panel appointed by the Board of Examiners. There could be a core membership of the board, with industry experts called upon for examinations in particular industries.

30. **Should we work towards a joint New Zealand/Australia accreditation process, or have an independent New Zealand board of examiners that maintains close links with Australian counterparts?**

No. An independent NZ Board of examiners is a better option.

The Australian process is centered around 7 states / territories and is fragmented accordingly. Each State in Australia does not necessarily recognize the qualifications issued by another state.

There is also the potential for the constant movement of qualified people leaving NZ for employment in Australia using an Australian based ticket.

h the payment of a levy? If yes, should the levy be based on output or the size of the workforce? If not, how should the board be funded?

No. The Board of Examiners should be funded by the Government with Industry contributing to cover the cost of the examination panel.

Worker participation: what we propose

110

- **All mining operations must have documented worker participation systems**
- **All workers, including contractors, will be covered**
- **Results of health and safety monitoring to be provided to all mine workers**
- **Site health and safety representatives will have new powers**

- **I**
n
d **ustry health and safety representatives are to be established**
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NB: The Bill making the necessary legislative changes regarding worker participation will need to be introduced to Parliament by the end of June, before this consultation is complete. Your submission on these proposals will still be taken into account before the Bill is finalised. You can also make a submission directly to the select committee.

31. **Do you support the proposed approach for applying worker participation to contractors? Do any difficulties arise; for example, from the use of the “mine worker” concept?**

Yes. It depends if the contractor is integral to the quarrying operation or itinerant. In practice, if they are on site longer than 12 months then they are a quarry worker.

In practice Contractors are obliged on their engagement to comply with individual site rules, commencing with their induction. The same applies to non- operational staff.

Ad hoc contractors e.g. cartage operators, are increasingly required to have a purpose designed site induction for the operational area and while this is currently not universal, it is gradually being adopted.

In the NZ Quarry Industry, there are also drill and blast, fitters, electricians, welders, auto electricians etc who work in a quarry on an as-required basis. These contractors will have been through the site induction programme prior to being allowed to carry out any work. None of these contractors could be considered a permanent employee, as they only work for a few hours to a few days at a time during the month, and not necessarily every month.

32. **Do you agree that we should replace the current approach for determining the functions of a site health and safety representative, which is for employers, employees and unions to negotiate these, and instead specify a list of functions? Should the parties be able to negotiate functions and powers in addition to those specified in the HSE Act.**

The current structure in the larger quarry companies is the site Manager (Quarry Manager) is ultimately responsible of H&S on their site plus safety representatives elected by the work force. Group appointed H&S staff administer the collective in the case of a number of sites.

Employee H&S committees in many cases meet independently of senior

management.

We support the concept of the Health & Safety reps role, but they must first approach the site manager with a documented concern, prior to stopping work on any site.

The discussion listed on page 55 of Volume 1 also seems to concentrate on larger sites where union participation is prevalent verses the majority of quarry sites where it is not.

33. **Do you support the proposed mix of functions, powers and complementary provisions for site specific and industry wide health and safety representatives? What would you suggest we do differently?**

This question needs clarification. However, our view is that Management must have the opportunity to respond and/or rectify H&S concerns expressed by employee reps, prior to the latter contacting regulatory inspectors.

The Quarry Industry does not agree that an Industry Wide Health & Safety Representative is required for quarries. The site H&S Rep has access to the regulatory inspector, who can be approached if there is no satisfaction relating to an H&S issue on site. There are many quarry operations which do not have (nor wish to have) any union representation.

34. **Are the industry wide functions from the Queensland legislation appropriate? What other industry wide functions could the proposed industry health and safety representatives undertake?**

No. The Queensland Coal Mining Regulations are not suitable for above ground operations and our understanding is that smaller mining or quarry operations in Queensland do not use the Queensland Coal Mining Regulations: but instead fall under the Queensland Metaliferous Mining Regulations.

35. **Do we need to provide immunity from liability for site and industry health and safety representatives?**

The question as we understand it is unclear. But our observation is that every employee has a certain level of responsibility on entering a site. If they see a potential H&S issue and don't report it are they liable? However the definitions on page 58 of Vol one have our support.

36. **What level of training and qualifications do you think should be required for site health and safety representatives?**

We contend that the site H&S rep should be trained to Unit 20198 (or equivalent) from the NZQA documents 2007. This is already current practice for some of the larger quarry companies and sites in NZ

112

37. **What level of training and qualifications do you think should be required for the industry health and safety representatives? Is the deputy's certificate an appropriate level of qualification for an industry health and safety representative for all types of mining operations?**

As above (question 36).

38. **What issues should be covered in a code of practice for worker participation? What sort of guidance on the documentation of worker participation systems would be useful?**

We agree with Paragraphs 3 & 4 on page 50 of the discussion document and it will be possible to adopt a quarry industry code of practice.

Emergency management: what we propose

- **Emergency management procedures and strengthened minimum standards are set out in the regulations**
 - **New requirements for emergency equipment and facilities in underground mines**
 - **All mines must have an emergency management plan**
 - **The Mines Rescue Service has broader coverage and is better funded**
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NB: The Bill making the necessary legislative changes on issues such as the Mines Rescue Service will need to be introduced to Parliament by the end of June, before this consultation is complete. Your submission on these proposals will still be taken into account before the Bill is finalised. You can also make a submission directly to the select committee.

39. **Do you agree with the proposed emergency management processes for mining operations? What would you change?**

As read these apply principally to underground mining activities and do not refer to surface extractive. A number of companies within the Quarry Industry already have detailed emergency plans incorporated in their H&S manuals.

A less onerous model could be made available for smaller operations led by industry H&S practitioners.

40. **Do you agree with the proposed minimum standards for the emergency equipment and facilities that must be present at underground mines? What would you change?**

They are not applicable to the Quarry Industry.

41. **Do you agree with the proposed requirements for emergency management plans? What changes do you suggest?**

Yes, as long as they are site specific for the Quarry Industry.

114

42. **Do you agree with the proposed changes to the MRT Act concerning functions, scope and levies of the MRS? What would you change?**

Not applicable to the surface extractive sector.

43. **Do you have any suggestions on how the levy that funds the MRS should be structured?**

As above

44. In making a submission you may wish to refer to the more detailed proposals concerning EMPs in technical appendices three and eight (in volume two).

Again, EMPs need to distinguish between underground and surface extraction activities.

Transitional arrangements: what we propose

- **The new regulatory framework for mining will come into effect in December 2013, but there will be transitional arrangements to allow duty holders time to comply with the new requirements.**
45. **Are the transitional phase-in provisions for the new regulatory approach reasonable?**
As per comments above, 5 years depending on the qualification, with “Life time” qualifications needing further examination.

