

THE REDRAFTED 2013 MINING REGULATIONS

Introduction

During 2014 and 2015, the alluvial and quarry sectors have looked at the 2013 Mining Regulations to assess their suitability for adoption by those sectors resulting in:

- The quarry sector has concluded that, with some minor changes, that they could accept inclusion of the sector in the 2013 Mining Regulations and these are explained further on in this submission;
- The alluvial sector consists of two sub-sectors; sand mining and alluvial gold mining. The sand mining sub-sector is prepared to accept coverage under the 2013 Mining Regulations subject to the same changes required by the quarry sector; and,
- The alluvial gold sector's response is slightly different in that they have rejected acceptance of the 2013 Mining Regulations on the basis of the unsuitability of several sections which appear to be the same as those the quarry sector wishes to change.

Consequently, MinEx submits that the quarry and alluvial sectors should be included under the 2013 Mining Regulations subject to certain amendments being made.

While we note that MBIE does not wish to see submissions on the coverage of these regulations, the industry sees benefits, subject to some minor amendments in the regulations, in moving all mining industry sectors under the 2013 Mining Regulations now.

Changes recommended to include quarry and alluvial sector in the 2013 Mining Regulations

Senior Site Executive (SSE)

MinEx submits that rather than relying on the PCBU concept, which is the default position if the quarry and alluvial sectors are not brought under the 2013 Mining Regulations, MBIE should amend regulation 9 to allow for the creation of an SSE (Surface Mines & Quarries) and then allow the BoE to set suitable competencies which would require industry consultation.

A suitable suite of competencies could be 7142, 26856, plus a suitable safety management system unit meaning that all current A and B grade quarry and alluvial CoC holders would only need to complete the one additional safety management system unit to hold an SSE (Surface Mines and Quarries) CoC.

Mechanical and Electrical Superintendents

The convention seems to be if you require an electrical or mechanical Principal Control Plan then you need to appoint a relevant superintendent. The consensus in the industry is that in surface mines electricity does not constitute a principal hazard. The working environment and use of electricity is similar to many industrial sites around New Zealand and we have adequate legislation to manage electrical risks in those work places.

There is however a potential issue with the mechanical control plan. All surface mining and quarrying sites should have a maintenance management system embedded within their safety management system. This system looks after both the efficient and cost effective operation of fixed and mobile plant along with the health and safety requirements for the equipment.

MinEx submits that surface mines should be exempt from the need to appoint a Mechanical and/or Electrical Superintendent (proposed regulations 28 and 29) and that these roles be amended to be required solely for underground operations. Currently the BoE requires a minimum of 3 years relevant experience but CoCs are not tagged underground or surface and so a surface experienced person could operate in the underground environment. The MinEx submission would resolve this issue.

Supervisor

This is a new role introduced in 2013 (proposed regulation 33) for all shifts in a multiple shift operation and in which the CoC holder is not present. In this case the minimum competency requirement is set by the regulations and not the BoE which would appear to be an anomaly given all other CoC competencies are set by the BoE.

MinEx submits that regulation 33 should be amended to allow the BoE to set the competency. MinEx further submits that this competency should be lower than the B grade minimum set by the regulations. The role inherently must be supervised by an A grade CoC holder given that few multiple shift operations would employ in total fewer than 5 employees.

It could be argued that the general duty to provide adequate supervision on shifts where the CoC holder is not present is sufficient, given the industry experience and qualification required of the A grade manager. Should the need for specific competencies be required then this process would be via industry consultation and a suitable qualification could be developed at a level lower than the current B grade CoC.

Part 9 Notification and reporting

There are some sections of Part 9 that require information that are not necessary for small alluvial aggregate operations (quarries) and we deal with these issues here.

Alluvial aggregate operations fall into two groups:

- Large scale, relatively static operations typified by the Christchurch quarries of Isaacs, Fulton Hogan and Road Metals; and,
- Small scale river bed based operations that are intermittent, with low faces typically less than 5m and usually operated with mobile processing plants.

Section 213 Plans of mining operations

For small, intermittent, river bed based operations the requirement to complete a plan drawn up by a surveyor is onerous and would seem to serve little useful purpose. In these cases resource consents are held that identify the location of the area allowed to be accessed and an aerial photograph with the location marked ought to be sufficient to locate the alluvial operation for the regulator and record the general extent of operations. The plan need only be submitted say annually if the operator intends to use the site in the coming year.

MinEx submits that section 213 be amended to require only a basic plan showing the location of river bed alluvial aggregate operations and that the plan need only be submitted say annually if the operator intends to use the site in the coming year.

Section 216 Plans of ceased mining operation

MinEx submits that a similar amendment to that proposed for 213 is required here for intermittent alluvial aggregate operations in riverbeds. It is anticipated that this plan would only be submitted when the resource consent expired.

Section 50 Untrained workers

While this section was written to apply to surface and underground mining operations, in surface operations it is difficult to achieve in some circumstances and un-necessary in a low risk environment.

MinEx submits that the section be modified by adding a sub-section for surface mining operations that requires the mine or quarry operator to closely supervise untrained workers and to ensure that they are only exposed to work environments appropriate to their skills and abilities until they are properly trained.

Transition provisions

MinEx submits that these will need to be considered for the quarry and alluvial sectors where time is required for full compliance.

Further changes that need to be made

These are as follows:

Quarry definition

The current definition in the act is:

19N Meaning of quarrying operation

- (1) In this Act, **quarrying operation**—
- (a) means an activity carried out above ground for the purpose of—
 - (i) extracting **any material**, other than any coal or any mineral, from the earth; or
 - (ii) processing **any material**, other than any coal or any mineral, at the place where the material is extracted; and
 - (b) includes the place where an activity described in paragraph (a) is carried out; and
 - (c) includes any place in which any material extracted or processed in a quarry is crushed or screened.
- (2) Subsection (1) applies whether or not the material is to be extracted or processed for commercial gain and whether or not the material is extracted or processed by the use of explosives.

One problem is with the use of the high-lighted word *material*. The implication of the use of the word is that all earthworks activities for whatever purpose and regardless of size are captured by this definition. It was not the intent of the 2013 Mining Regulations that it extends to civil earthworks activities such as bulk excavation.

Another problem is with section (c) which captures fertiliser processing of rock imported from outside New Zealand as well as downstream operations from quarry processing plants that are located distant from the quarry and often owned and operated by a company that is not the quarry owner. Examples are concrete and hot-mix plants.

A number of better examples of a definition are available. Queensland defined a quarry in their 1999 act which is still current as:

11 Meaning of quarry

- (1) *A quarry is a place on land where operations are carried on, continuously or from time to time, to produce construction or road building material.*
- (2) *However, a place on land where operations are carried on, continuously or from time to time, to produce construction or road building material is not a quarry if the operations are carried on—*
 - (a) *to produce construction or road building material substantially for use at a construction site at the place, or that adjoins, is adjacent to, or contiguous with, the place; or*
 - (b) *to excavate building foundations as part of construction work; or*
 - (c) *to extract, but not crush, river sand or gravel; or*
 - (d) *to redevelop the place as a place for any of the following—*
 - (i) *housing;*
 - (ii) *a shopping complex;*
 - (iii) *an industrial estate;*
 - (iv) *a recreation area;*
 - (v) *a landfill site.*

Clearly the issues MinEx is raising have been faced by other jurisdictions and dealt with in a better way than the 2013 Mining Regulations.

MinEx submits that the definition needs to be amended to ensure that it is clear and unambiguous in line with the Queensland definition or other similar definitions.

WorkSafe exemptions

WorkSafe may provide an exemption to any of the requirements of the 2013 Mining Regulations under Schedule 1, section 7 but this expires 31 December 2017. If the quarry and alluvial sectors fall under the 2013 Mining Regulations then this exemption will need to be extended for them for the same reason the exemption was granted to those who came under the regulations in December 2013.

In addition, unless there the amendments MinEx submits need to be made to the 2013 Mining Regulations occur in this round of amendments, the delay will require an extension of the current exemption.

MinEx submits that section 7 of Schedule 1 needs to be amended to grant an indefinite exemption to WorkSafe and, at the very least, time to allow exemptions to be granted until errors are corrected in the 2013 Mining Regulations and MinEx recommended amendments to allow the quarry and alluvial sectors to be covered by the regulations are bedded in.