

Natural Resources, Mines and Energy Legislation (Safety and Health) Amendment Regulation 2020

Explanatory notes for SL 2020 No. 69

made under the *Coal Mining Safety and Health Act 1999*, the *Explosives Act 1999*, the *Mining and Quarrying Safety and Health Act 1999*, the *Petroleum Act 1923* and the *Petroleum and Gas (Production and Safety) Act 2004*

General Outline

Short title

Natural Resources, Mines and Energy Legislation (Safety and Health) Amendment Regulation 2020

Authorising law

Section 282 of *Coal Mining Safety and Health Act 1999* (the CMSH Act)

Section 135 of the *Explosives Act 1999* (the Explosives Act)

Section 262 of the *Mining and Quarrying Safety and Health Act 1999* (the MQSH Act)

Section 149 of the *Petroleum Act 1923*

Section 859 of the *Petroleum and Gas (Production and Safety) Act 2004* (the PG Act).

Policy objectives and the reasons for them

The policy objectives of the *Natural Resources, Mines and Energy Legislation (Safety and Health) Amendment Regulation 2020* (the Amendment Regulation) are to:

- (a) make consequential amendments arising from the commencement of the *Resources Safety and Health Queensland Act 2020* (the RSHQ Act) to:
 - the *Coal Mining Safety and Health Regulation 2017* (the CMSH Regulation);
 - the *Explosives Regulation 2017* (the Explosives Regulation);
 - the *Mining and Quarrying Safety and Health Regulation 2017* (the MQSH Regulation); and
 - the *Petroleum and Gas (Safety) Regulation 2018* (the PG Safety Regulation); and

- (b) insert record keeping requirements for information included in a safety and health census to require mining, quarrying and explosives operators to keep records of safety and health census information for 7 years.

The Amendment Regulation is to commence on 1 July 2020, following the commencement of the remaining provisions of the RSHQ Act and provisions mentioned in section 2 of the *Coal Mining Safety and Health and Other Legislation Amendment Regulation 2019* (the CSMHOLA Regulation). This is due to the Amendment Regulation making changes that are consequential to both of these instruments (both of which are set to commence on 1 July 2020).

Consequential amendments – RSHQ Act

The RSHQ Act establishes a revised regulatory framework for resources safety and health, including an independent statutory body called Resources Safety and Health Queensland.

The RSHQ Act also amends the Resources Safety Acts (the CSMH Act, the Explosives Act, the MQSH Act and the PG Act) to reflect the transition of the safety regulator from a government department to a statutory body. The amendments include revisions of terminology and references to individuals and entities. Equivalent consequential amendments are required to the CSMH Regulation, the Explosives Regulation, the MQSH Regulation and the PG Regulation (collectively referred to as the Resources Safety Regulations) to ensure effective implementation of the RSHQ Act and continuity of regulation following its commencement.

Record keeping requirement

The Amendment Regulation amends the CSMH Regulation, the Explosives Regulation and the MQSH Regulation to require mining, explosives and quarry operators to keep, for 7 years, records enabling the accuracy of the information included in the safety and health census provided to the safety regulator, to be verified. The 7-year timeframe aligns with other record keeping requirements under Queensland mining safety and explosives legislation as well as with general timeframes for keeping financial records. The changes will not prescribe a standard on how the records must be kept; however, the holder must be able to produce or provide access to the records on request. The 7-year retention requirement is to support any subsequent auditing activities undertaken by the safety regulator.

The resources safety and health regulatory framework is funded through the safety and health fee and other fees and charges. The safety and health fee liability for mining, explosives and quarry operators is determined from worker numbers reported through a quarterly census. Small operators can opt to submit an annual census.

Accurate census information is required for the regulator to assess the workforce size, manage resources effectively, and ensure equitable distribution of service costs for safety and health services. Sample audits by the regulator have identified inadequate standards of data and records management for some operators, putting at risk the regulator's capacity to verify census information.

Achievement of policy objectives

The objectives of the Amendment Regulation are achieved by amending:

- (a) the Resources Safety Regulations to revise terminology and reference individuals and entities consistent with changes made by the RSHQ Act to the Resource Safety Acts; and
- (b) the CMSH Regulation, the Explosives Regulation and the MQSH Regulation to insert record keeping requirements for information included in a safety and health census to require mining, quarrying and explosives operators to keep records of safety and health census information for 7 years.

The Amendment Regulation commences on 1 July 2020, immediately following the commencement of the remaining provisions of the RSHQ Act and provisions mentioned in section 2 of the CMSHOLA Regulation. This ensures changes made by the Amendment Regulation occur after the changes made by both of these instruments.

Consistency with policy objectives of authorising law

The Amendment Regulation is consistent with policy objectives of the CMSH Act, the Explosives Act, the MQSH Act and the PG Act.

Inconsistency with policy objectives of other legislation

There is no inconsistency with policy objectives of other legislation.

Benefits and costs of implementation

There are no benefits and costs associated with implementing the consequential amendments to the Resources Safety Regulations. Information about the benefits and costs of establishing the revised regulatory framework for resources safety and health in Queensland were provided in the explanatory notes accompanying the *Resources Safety and Health Queensland Bill 2019*.

The benefit to operators of the record keeping requirement is that verifiable information will ensure accurate charges are applied to all operators. The benefit to the regulator is that robust census information will support effective planning and ensure safety and health service costs can be equitably distributed.

Operators that do not have adequate data and records management systems in place may incur initial compliance costs. In the longer term, however, compliant systems may reduce administrative costs associated with verification and auditing processes.

Impacts of any implementation costs are mitigated by not making the requirement retrospective, not specifying how records must to be kept and by providing an applicable transition period to allow operators time to implement compliant record keeping systems, in readiness for the next full reporting period. In practice, this provides a 3-month transition period for operators who submit a census each quarter. Smaller operators that can opt to report census information annually will have 12 months to implement a compliant record keeping system.

Consistency with fundamental legislative principles

The Amendment Regulation is consistent with fundamental legislative principles.

Consultation

For the consequential amendments, in accordance with the *Queensland Government Guide to Better Regulation* (guidelines), the Office of Best Practice Regulation (OBPR) was not consulted. The department applied a self-assessment from undertaking further regulatory impact analysis (category (g) – Regulatory proposals that are of a machinery nature).

For the record keeping amendment, OBPR was consulted regarding the need to prepare a Regulatory Impact Statement under the guidelines. OBPR advised that the proposals are unlikely to result in significant adverse impacts, and no further assessment is required under the guidelines. The advice also recommended consultation with small operators to confirm they would not be disproportionately impacted.

Consultation on the record keeping amendment was undertaken in February 2020 with the relevant industry peak bodies, Queensland Resources Council, the Australian Explosives Industry Safety Group and Cement Concrete and Aggregates Australia (CCAA). The information paper included a specific request for feedback from smaller operators about the impacts of the proposed change.

The sole submission from CCAA noted an increased administrative burden for some operators that only keep manual records and for those that do not keep them for 7 years. The changes are not retrospective and the 12 month transitional arrangements for small operators will assist in mitigating the immediate impact on these operators. In addition, improved record keeping is anticipated to reduce longer term administrative burden on all operators associated with census verification processes.