

Resources Safety and Health Legislation (Fees and Other Matters) Amendment Regulation 2021

Explanatory notes for SL 2021 No. 75

made under the

Coal Mining Safety and Health Act 1999

Explosives Act 1999

Mining and Quarrying Safety and Health Act 1999

Petroleum and Gas (Production and Safety) Act 2004

General Outline

Short title

Resources Safety and Health Legislation (Fees and Other Matters) Amendment Regulation 2021

Authorising law

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

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

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

Sections 10(1)(d), 11(2)(c) and 859 of the *Petroleum and Gas (Production and Safety) Act 2004* (PG Act)

Policy objectives and the reasons for them

The objectives of the *Resources Safety and Health Legislation (Fees and Other Matters) Amendment Regulation 2021* (amendment regulation) are to:

- Index regulatory fees for Resources Safety and Health Queensland (RSHQ) by the 2021-22 Government indexation rate following their annual review in accordance with Queensland Treasury's *Principles for Fees and Charges*
- Define biogas and biomethane into the *Petroleum and Gas (General Provisions) Regulation 2017* (PG General Reg) to provide clarity concerning the scope of the legislation
- Streamline invoicing and employee census reporting requirements in the *Coal Mining Safety and Health Regulation 2017* (CMSH Reg), the *Explosives Regulation 2017* (Explosives Reg) and the *Mining and Quarrying Safety and Health Regulation 2017* (MQSH Reg) to improve efficiencies and remove unnecessary regulation

- Make consequential amendments arising from recent amendment regulations to keep legislation current and consistent.

Biogas and Biomethane definitions

Biogas operations (including biomethane) are subject to safety requirements in the PG Act, as biogas is petroleum and a fuel gas under the PG General Reg. However there is no definition for biogas or biomethane. Biogas and biomethane have different usages and different purposes and the legislation's scope and effect are unclear for stakeholders and this may increase non-compliance and risks to safety and health. Therefore, definitions are to be provided in the PG General Reg for biogas and biomethane.

Achievement of policy objectives

Biogas and Biomethane definitions

In the absence of a definition, there is a lack of clarity concerning the different uses of biogas and biomethane, for example the process of upgrading biogas into biomethane for a higher order use. This means the scope and effect of the legislation are unclear for regulated stakeholders and this may increase non-compliance and risks to safety and health.

Definitions for biogas and biomethane are inserted into the PG General Reg and reference the International Standard Organisation (ISO) definition. The definition is found under ISO 20675:2018 *Biogas – Biogas production, conditioning, upgrading and utilisation – Terms, definitions and classification scheme*. The ISO definitions are:

- *biogas*: gas produced by anaerobic digestion of organic matter, gasification of biomass or power to gas from biomass sources and without further upgrading or purification. It was proposed that the Petroleum and Gas legislative definition could align with this internationally recognised definition.
- *biomethane*: a methane-rich gas with the properties similar to natural gas derived from biogas produced by anaerobic digestion or gasification or from power to gas by upgrading.

Government indexation of regulatory fees

The amendment regulation will achieve this objective by increasing resources safety and health fees by 1.7 per cent (with rounding for coinable amounts). This aligns with the Government Indexation Rate for 2021-22 and the rounding principles in Queensland Treasury's *Principles for Fees and Charges*.

Invoicing and employee census reporting requirements

The amendment regulation revises invoicing provisions of the CSMH Reg, Explosives Reg and MQSH Reg by establishing nominated invoice dates for each quarter and an annual invoice date. The changes will streamline processes for payment and reduce the requirement to follow up unpaid invoices without impacting existing timeframes available to operators to pay their invoices.

Mining and explosives operators that do not employ workers will no longer be required to report on employee numbers or to seek an exemption from reporting following

amendments to the Explosives Regulation and the MQSH Regulation. Amendments to exclude categories of non-employing authority holders or responsible persons will remove an unnecessary administrative burden for operators seeking to comply with the current obligation. Where there are fluctuating employee numbers, such as explosives operators holding licences to use and shotfirers licences, the annual Explosives and Fireworks Industry Census form has built in calculations to calculate a full-time equivalent figure from the hours worked of any fluctuating workers under their licence and provides for any worker who was working in a full-time capacity.

Consequential amendments

Minor amendments will achieve consistency and currency of resources safety legislation in line with drafting practices and recent amending legislation. The changes revise terminology in the resources safety regulations to reflect previous regulation and authorising Act amendments, omit redundant definitions, references and unworkable provisions.

Consistency with policy objectives of authorising law

The amendment regulation is consistent with the objective of the relevant Acts.

Inconsistency with policy objectives of other legislation

The amendment regulation is not inconsistent with any policy objectives of any legislation.

Benefits and costs of implementation

Definition of biogas and biomethane

There are no additional costs for the insertion of the definitions. Benefits will be to provide the industry, stakeholders, users and the regulator with greater clarity and certainty about biomethane and biogas safety regulation.

Government indexation of regulatory fees

The indexation of fees provides a mechanism understood by the community and industry to maintain price relativity, aiding the government in formulating the state and departmental budgets.

Invoicing and employee census reporting requirements

There are no additional costs associated with implementing the invoicing and employee census reporting amendments. Benefits associated with these changes include more efficient administrative processes for government and regulated entities and the removal of unnecessary regulation for some mining and quarrying operators. For example, operators that do not employ workers will not be obligated to report or seek and exemption from reporting on employee numbers.

Consequential amendments

There are no additional costs associated with implementing the consequential amendments.

Consistency with fundamental legislative principles

The amendment regulation is consistent with fundamental legislative principles.

Consultation

Biogas related amendments

Consultation with industry stakeholders on biogas regulation has been undertaken in recent years. A Terms of Reference and Discussion Paper were prepared in 2017 seeking industry input into the review of biogas regulation. The Discussion Paper sought industry feedback on the definitional issue, along with other technical issues that are being considered separately. The Petroleum and Gas Inspectorate within RSHQ undertook an engagement roundtable with industry stakeholders in May 2018. An updated Discussion Paper was drafted to progress the biogas amendments and was circulated to industry stakeholders in August 2020.

A further roundtable was held on 19 August 2020 with attendance by industry stakeholders who currently pay the Safety and Health fee to RSHQ.

The Office of Best Practice Regulation (OBPR) within the Queensland Productivity Commission was consulted regarding the need to prepare a Regulatory Impact Statement under the *Queensland Government Guide to Better Regulation* (the guidelines). OBPR advised that the proposals are unlikely to result in significant adverse impacts, and no further assessment is required.

Invoicing and employee census reporting requirements

The employee census reporting amendments respond to complaints raised by some mining and quarrying operators about the need to comply with these obligations when they do not engage employees.

OBPR was consulted about these proposals. OBPR's response noted that the proposed changes would reduce compliance requirements, simplify administration and are unlikely to result in significant adverse impacts. No further regulatory impact analysis is required under the guidelines.

Government indexation of fees and consequential amendments

OBPR was not consulted in relation to regulatory proposals for the indexation of regulatory fees and the consequential amendments.

RSHQ applied self-assessable exclusions from undertaking further regulatory impact analysis as follows:

- Fee indexation – category (h) – regulatory proposals that put forward standard annual fee variations in line with or below a government endorsed indexation factor) and
- Consequential amendments – category (a) – regulatory proposals that make consequential amendments.

No stakeholder consultation was undertaken as the annual regulatory fee increases were made in line with the Government's 2021-22 indexation rate. The consequential amendments update regulatory provisions to align with previously made amendment regulations.

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