

# **Mining and Quarrying Safety and Health Amendment Regulation 2023**

Explanatory notes for SL 2023 No. 185

made under the

*Mining and Quarrying Safety and Health Act 1999*

## **General Outline**

### **Short title**

*Mining and Quarrying Safety and Health Amendment Regulation 2023.*

### **Authorising law**

Section 262 *Mining and Quarrying Safety and Health Act 1999.*

### **Policy objectives and the reasons for them**

The objective of the *Mining and Quarrying Safety and Health Amendment Regulation 2023* (the Amendment Regulation) is to amend the *Mining and Quarrying Safety and Health Regulation 2017* (the MQSH Regulation) to set specific exposure limits of 5mg/m<sup>3</sup> for welding fumes and 0.05mg/m<sup>3</sup> for respirable crystalline silica. The Amendment Regulation also provides for diesel particulate matter to be excluded from the application of the *Workplace exposure standards for airborne contaminants* published by Safe Work Australia, which otherwise applies to airborne contaminants under the MQSH Regulation. Diesel particulate matter will continue to be subject to a recommended maximum exposure limit of 0.1mg/m<sup>3</sup> through the Resources Safety and Health Queensland (RSHQ) Guidance Note *QGN 21 Guidance note for management of diesel engine exhaust in metalliferous mines.*

These amendments will provide stakeholders in the mining and quarrying industry the same opportunity that applies to the coal mining industry to take part in industry specific consultation on reducing the workplace exposure limits that apply to these three products.

### **Achievement of policy objectives**

The Amendment Regulation amends schedule 5 of the MQSH Regulation to insert a new hazard under column 1 “welding fumes” with a general exposure limit in column 2 of “5mg/m<sup>3</sup>”. A second new hazard is inserted under column 1 “respirable crystalline

silica (quartz, cristobalite, tridymite)” with a general exposure limit in column 2 of “0.05mg/m<sup>3</sup>”. The existing “airborne contaminant” hazard is amended such that it reads “airborne contaminant other than welding fumes, respirable crystalline silica or diesel particulate matter”.

The effect of the amendments is to remove the link to the exposure limits set by the *Workplace exposure standards for airborne contaminants* published by Safe Work Australia for these three contaminants. It does not change the limits that apply to the mining and quarrying industry before the amendment.

## **Consistency with policy objectives of authorising law**

The objectives of the *Mining and Quarrying Safety and Health Act 1999* (the MQSH Act) are to protect the safety and health of persons at mines and persons who may be affected by operations; and to require that the risk of injury or illness to any person resulting from operations is at an acceptable level.

The making of the MQSH Act and the MQSH Regulation acknowledges that there are specific circumstances that apply to the mining and quarrying industry, and that these particular circumstances need to be considered in setting regulations that must be followed to ensure that risk is at an acceptable level. Consultation with the industry is required to determine how to manage a transition to reduced exposure limits without increasing risks from other mining specific hazards.

## **Inconsistency with policy objectives of other legislation**

The Amendment Regulation is not inconsistent with the policy objectives of any other jurisdictions. While the requirements of the *Workplace exposure standards for airborne contaminants* apply to general workplaces under the *Work Health and Safety Act 2011* (WHS Act), Schedule 1, Part 2 Division 1 section 2(1)(b) of the WHS Act specifies that it does not apply to a mine to which the MQSH Act applies.

## **Benefits and costs of implementation**

There are no costs associated with the Amendment Regulation because it maintains the regulated limits that currently apply at mines and quarries to welding fumes and respirable crystalline silica exposure limits, and the recommended exposure limit that applies to diesel particulate matter.

The benefit of the Amendment Regulation is that it aligns the MQSH Regulation with the approach taken in the *Coal Mining Safety and Health Regulations 2017*, improving consistency between the legislative approaches that apply to mines and quarries and coal mines in Queensland. This will ensure the mining and quarrying industry has the same opportunity that applies to the coal mining industry to take part in industry specific consultation on lowering the workplace exposure levels for welding fumes and respirable crystalline silica, and introducing a statutory limit for diesel particulate matter.

As the Amendment Regulation maintains the existing exposure limits for airborne contaminants, RSHQ has prepared an Impact Analysis Statement and determined that the proposal be agency-assessed as a regulatory proposal that does not require further impact analysis under *The Queensland Government Better Regulation Policy* (September 2023), because the proposal is minor.

## **Consistency with fundamental legislative principles**

The Amendment Regulation has been drafted to be consistent with fundamental legislative principles, as defined in section 4 of the *Legislative Standards Act 1992*.

## **Consultation**

No stakeholder consultation has been undertaken because the amendment is minor. It is worth noting however that the purpose of the Amendment Regulation is to allow for industry specific consultation on any future proposed amendments to workplace exposure levels for the affected products.