

Legislation

09.01.17

Workplace Health and Safety Act 2007 (WHSA)

Risk Management Plans – Mining Operations >

This information bulletin is based on feedback from the resources sector and provides guidance on risk management plans for mining operations as required under the [Workplace Health and Safety Act 2007](#) (the Act) and the [Workplace Health and Safety Regulations 2008](#) (the regulations). Please refer to Section 58 of the Act and Regulations 39A, 39B, and Schedule 5 of the regulations for details of the specific legal requirements. General information on the application of OHS legislation to mining operations may be found in Information Bulletin [09.01.12 Application of the Workplace Health and Safety legislation to mining operations](#).

Risk Management Plans for Mining Operations***Why does the Act (and regulations) require Risk Management Plans (RMP) for some activities?***

Every employer has a duty under the Act (Section 55 – the employer’s general statutory duty of care) to proactively and systematically identify hazards associated with the conduct of their business, identify, and assess the seriousness of risks resulting from those hazards, determine appropriate risk management measures (in accordance with a hierarchical approach), carry the risk management measures into effect, and monitor and review to ensure they remain effective.

In relation to **some activities that are considered to be high risk**, the Act (and the regulations) require that the person proposing to undertake the activity (usually the employer) notifies the regulator (NT WorkSafe) and **demonstrate to the regulator** that they have actually considered the potential hazards of the work before commencing and determined how those risks will be controlled and how they will ensure the control measures are actually implemented. They do this by submitting a RMP.

The requirement for notification of proposed work, including a RMP, is in relation to “hazardous activities” (Schedule 5 of the regulations) and a RMP for mining operations (regulation 152B).

Regulation 152A states:

“**mining operations** means any of the following operations or activities:

- (a) exploration for minerals;
- (b) mining;
- (c) processing of minerals, tailings, spoil heaps or waste dump;

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- (d) decommissioning or rehabilitation of a mining site;
- (e) operations incidental, or related to any of the above, including:
 - (i) the removal, handling, transport and storage of minerals, substances, contaminants and waste; and
 - (ii) the construction, operation, maintenance and removal of plant and buildings;
- (f) operations for the care and maintenance of a mining site during the suspension of other mining operations.”

What kind of work must be notified (notifiable work) to NT WorkSafe (and a RMP submitted)?

The activities specified in Schedule 5 of the regulations must be notified to NT WorkSafe at least seven days prior to commencement and a RMP for the activity submitted with the notification form.

These are:

- Excavation work requiring shoring under regulation 145
- Demolition of a building or structure using explosives
- Demolition of a building or structure of a height greater than 6 meters
- Removal of asbestos or a substance containing asbestos that is required to be performed by a person who is the holder of an asbestos removalists license
- Work involving the use of suspended scaffolding
- Erection of a public stand constructed of scaffold components

An employer who proposes to undertake a hazardous activity must prepare a risk management plan and have it certified as adequate by a person with qualifications or credentials acceptable to NT WorkSafe. A risk management plan must comply with any requirements imposed by the regulations.

In relation to work that must be notified under the regulations, this must be done prior to work commencing. In relation to ongoing mining operations these plans are submitted in lieu of a Mining Management Plan covering OHS requirements (which was the requirement prior to the *Workplace Health and Safety Act 2007*) and cover the hazards and control measures that relate to the mining operation to which no prior notification requirement exists.

What about ‘notifiable work’ being done on a mine site? Is this covered or does it have to be covered by the RMP for the mining operation?

You will note that the regulation places a duty on a person undertaking notifiable work or allowing notifiable work to take place; it is an offence to undertake this activity unless the Authority (NTWS) has been notified on the required form (and provided with a Risk Management Plan for the activity) at least 7 days prior to the commencement of the work.

The notification requirement (including the Risk Management Plan) applies to all situations where notifiable work (such as asbestos removal, demolition using explosives etc.) is to be undertaken, including where it is to take place on a mine site (which has a Risk Management Plan in place for its mining operations) or it is done in conjunction with another notifiable activity such as asbestos removal undertaken in conjunction with notifiable demolition. The person undertaking each notifiable activity must ensure that they notify and submit a risk management plan for the part of the work for which they are responsible.

What is a Risk Management Plan for a mining operation?

A Risk Management Plan is a document (which may be electronic) that meets the requirements of regulation 39B – that is it must:

- identify the hazards involved in the activity; and

- identify the risks resulting from the hazards and the seriousness of those risks; and
- address the risk of high consequence, low probability events; and
- determine appropriate risk management measures (according to the risk management hierarchy i.e. eliminate if reasonably practicable and if not reduce the risk to as low a level as is reasonably practicable); and
- specify the means by which the risk management measures will be implemented; and
- determine a mechanism for monitoring and reviewing the effectiveness of the risk management measures; and
- specify the training which must be provided to a worker who may be exposed to a hazard; and
- specify any requirements for health surveillance of workers; and
- specify the records particular to the risk management plan that must be kept; and
- specify the qualifications or credentials of the person who prepared the risk management plan

A RMP for a mining operation must also:

- include a fitness to work program; and
- specify the management structure and responsibilities/accountabilities for the mining operation; and
- include an emergency plan

Regulations 152D, 152E and 152F have specific requirements in relation to these aspects of the plan. In addition, Regulation 152G contains specific requirements in relation to health surveillance of workers engaged in mining operations.

If the document submitted contains all of this information then it is a Risk Management Plan under the Act and the Regulations. This means that the employer has met the obligation to submit a RMP to the regulator. **If the document does not contain all the required information as per the legislative requirements, then it is not a RMP and the obligation has not been met.** In this case, changes will be required and the plan resubmitted.

How do you determine appropriate risk management measures?

The primary goal of risk management and the legal obligation of the employer is to eliminate or minimise workplace risk as far as is reasonably practicable. For information on the concept of “reasonably practicable” see NT WorkSafe information bulletin [09.01.14](#) Legislation – Reasonably Practicable.

When an employer formulates risk management measures, the following issues should be addressed in regard to **each identified risk**:

- An employer must ensure that a worker's exposure to a hazard at a workplace is controlled to minimise the risk to the health and safety of the worker.
- Where there is a need to control a worker's exposure to a hazard, the control shall be achieved, as far as practicable, through the progressive application of one or more of the following measures:
 - > whether it is possible to eliminate the relevant source of risk entirely;
 - > whether the source of the risk can be isolated from workers;
 - > whether the source of the risk can be controlled by engineering means;
 - > whether the risk can be controlled by administrative means (such as the adoption of a different system of work, different working practices, or the introduction of warning systems);
 - > whether the risk can be avoided or reduced by the use of personal protective clothing or equipment.

An employer only meets their duty by implementing the highest order control measure that is reasonably practicable.

A new risk management plan is not required each time the hazardous activity is undertaken however the risk management plan must be amended if:

- significant new risks are identified;
- or risk management measures are modified; or
- new risk management measures are identified.

If we have a documented Occupational Health and Safety Management System (OHSMS) in place, can we just send a copy of all our documentation for the OHSMS as our RMP?

No, this would not meet the obligation to submit a RMP in relation to the mining activities. While many of the requirements of a RMP would be contained within the documentation that forms an OHSMS, the requirement is to provide information specifically in relation to the identified hazards, control measures, health surveillance and so on in a document that is provided and certified for this purpose. In addition, the full documentation of an OHSMS would provide a level of detail that is not required for the purposes of submitting a RMP.

As an example: the identified hazards associated with the operation of mobile plant as part of a mining operation may be addressed in part by the certification and training of operators, safe operating procedures (SOPs) and an appropriate level of supervision. This would be sufficient information on the control measures in place for the purposes of preparing a RMP. Your OHSMS would potentially include copies of the certification register, content of training courses, qualifications of trainers and supervisors and copies of SOPs. NT WorkSafe does not require this level of detail in your RMP. However, NT WorkSafe Workplace Safety Officers may request copies of these documents or further information as part of operational follow up or during site visits.

What if NT WorkSafe doesn't think the RMP covers all of the issues that should have been covered in the RMP or NT WorkSafe is not satisfied with the proposed risk control measures?

These are matters that NT WorkSafe can follow up operationally with the employer – NT WorkSafe may seek further information, can ask you to implement different controls and submit a new plan, NT WorkSafe may visit to ascertain if further action is required etc.

NT WorkSafe will not hold up acknowledging that you have met the obligation to submit a plan until any matters arising from a technical review of the RMP are resolved or any follow up action is finalised. If the RMP you have submitted contains the relevant information (as specified by the regulations) then NT WorkSafe will acknowledge receipt of it and follow up other issues operationally.

What is the purpose of a RMP then?

A RMP is not a contract between the employer and NT WorkSafe or an agreement about how things will be done – the employer does not propose and NT WorkSafe approve – the purpose is for employers to advise NT WorkSafe that they intend to conduct the operation (or are continuing an existing operation) and to demonstrate that they have mechanisms in place to ensure that they are meeting their proactive duty of care and their legislative obligations as per the Act and Regulations in relation to RMP. The RMP also provides information about organisational structure and risk management measures that enable NT WorkSafe to determine any further action or the need for site visits etc. The RMP provides NT WorkSafe with information and this is an input into NT WorkSafe's ongoing activity with that workplace.

But if the employer has told NT WorkSafe they were going to do something a particular way in the RMP how can NT WorkSafe go out later and require them to do something else?

The acknowledgement that the employer has met the obligation to submit a plan that contains all the elements required by the Act and regulations does not mean that NT WorkSafe can't subsequently seek additional information or form a judgement that more needs to be done.

In relation to sites that submit RMP, NT WorkSafe has all the same powers and functions that it has with any other workplace and its officers can form judgements about the adequacy or appropriateness of what is in place. Over time, NT WorkSafe expects that operational involvement with sites will result in better RMPs being submitted in the first instance but NT WorkSafe doesn't go back and forth with the employer to try to get a plan that NT WorkSafe is "happy with" before acknowledging that the employer has met the specific legislative obligation to submit a plan.

So does the RMP for a mine have to cover everything that is done on site? For example, the safe work procedures for cooks in the canteen, safe manual handling of photocopy paper etc.?

The intention of the RMP requirement is to ensure appropriate consideration, planning and control measures are in place in relation to high risk activities and therefore it should focus on the mining operation as per Regulation 152A – these are the matters the plan needs to address. The employer continues to have all their general legal obligations in relation to the health and safety of all its operations but the ones the plan is focussed on are the mining operations.

What does this mean in relation to notification of incidents under the Act?

Section 64 of the Act requires the reporting of certain incidents to NT WorkSafe – all of this section relates to mining operations. Additional information on the general notification requirements can be found in Information Bulletin [09.01.04](#) Notification of incidents and accidents. In addition to the general criteria for reporting Section 64 (d) says an employer must also report "an incident classified by the regulations as a reportable". Regulation 46 -Incidents classified as reportable incidents says:

"For section 64(d) of the Act, an accident involving a hazardous activity for which a risk management plan is required is a reportable incident."

This means that in addition to the criteria in Section 64 any incident involving the mining operation is also reportable to NT WorkSafe by a mine operator. For example, this does not mean that an office worker tripping on a mat and suffering an injury that does not require medical treatment is reportable but it would mean that an accident involving the processing of minerals would be reportable.

What does a RMP for mining operations have to look like?

There is no prescribed format for a RMP but the regulations specify (as above) what must be included in the content of the plan. Provided all the relevant information is included in the document and it is appropriately certified, then it is a RMP.

It would be of assistance to you in developing your RMP and useful to NT WorkSafe in reviewing plans submitted to determine whether or not the duty to submit a plan has been met, if the information was grouped under headings that reflect the regulations. For example:

Hazards involved in the activity are identified

This information should cover the potential hazards of the mining operations to be undertaken such as mobile plant, isolated work sites, moving machinery, rotating drilling equipment, electrical hazards, hazardous underground atmospheres etc. that may arise in carrying out the mining activity.

The information in the following sections must then relate to the hazards identified in this section. Generic organizational procedures for the management of safety in general do not meet the requirement of the regulations; information on how the hazards identified will be managed is what is required. Generic industry hazard lists are not acceptable, they must be based on the specific hazards identified for the specific mine operation.

Risks resulting from the hazards and the seriousness of those risks are identified

This section should take into account such matters as the proximity of workers to equipment while it is operating, the potential for workers to require medical treatment in isolated work areas, the potential for superficial injury arising from contact with processing equipment or the potential for death or serious injury if a person was struck by mobile plant and so on.

The risk of high consequence / low probability events are addressed

This means that, for example, although the risk of a person being so seriously ill or injured as to require emergency medical treatment in an isolated work location might be considered to be low (perhaps it has never happened before) the potential for death or serious injury (high consequence) means that such low probability events must be anticipated and control measures put in place.

Appropriate risk management measures are determined

✓ to eliminate, as far as reasonably practicable, avoidable risks

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This section should include information on the control measures that will be implemented. For example, they may include only using a particular type of equipment for some tasks because it is safer, processing and moving product as a slurry instead of dry to control dust, certification of operators of mobile equipment, safe work procedures for all operational tasks, pre operational safety checks of equipment and tag out processes for maintenance, communication arrangements for workers in isolated areas or working alone etc.

Means by which the risk management measures will be implemented are specified

This would include information on internal training and assessment procedures, levels of supervision, documented OHS management systems, induction and ongoing training, documented safe work procedures, internal auditing of compliance with organizational procedures etc.

Fitness for work program (refer to regulation 152D)

Outline the procedures in place for assessment and monitoring in relation to the potential for people to be adversely affected by drugs or alcohol and the mechanisms in place to manage work related fatigue.

Set out the management structure for the mining operation (refer to regulation 152E)

This section should provide information on where management responsibility for OHS rests in the organization, and identify the chain of line management through which the employer seeks to meet its duties.

Emergency Plan (refer to regulation 152F)

This section should identify the kinds of emergencies that may occur in the operation (fire, explosion, chemical spill, underground cave in etc.) and outline the emergency procedures that are in place in relation to these situations. The information should include any on site combating arrangements, the frequency with which evacuation drills are conducted etc.

Training which must be provided to a worker who may be exposed to a hazard is specified (refer to regulation 43)

In addition to training in relation to how to perform their work safely, any hazard specific training required by the regulations must be outlined; for example, training in working with hazardous substances, confined space entry etc.

Any requirements for health surveillance of workers are specified (refer to regulation 152G)

Regulation 152G outlines the minimum requirements for health surveillance. Where the hazard identification process identifies the potential for exposure to hazardous substances, asbestos or other carcinogens etc, then the RMP must reflect the health surveillance requirements related to the specific potential exposure.

The records particular to the risk management plan that must be kept are specified

Regulations 41, 45, 69D and 87F contain specific requirements in relation to the keeping of records. Additional guidance on record keeping can be obtained from Information Bulletins [14.01.08](#) – Record Keeping and [14.01.09](#) – Maintaining Occupational Health and Safety Records.

The qualifications or credentials of the person who prepared the risk management plan are specified

In terms of what qualifications or credentials would be acceptable to the Authority, this must be considered on a case by case basis as clearly different expertise or experience would be relevant to different hazards and levels of risk. For example, we would consider a licensed asbestos removalist suitable to sign off on a RMP relating to an asbestos removal, however, such a person may not be qualified to certify a RMP that relates to mining operations.

In relation to RMP for mining operations, a suitable person may be someone with specific qualifications and/or extensive experience in the safety aspects of the industry, specific safety qualifications and experience, specific expertise such as mining engineering or other training and background. In addition, a range of different expertise may be involved in developing particular elements of the RMP and the overall certification may be provided by a person with general mining safety qualifications and experience who reviews and then certifies the RMP.

It is not a requirement that an employer necessarily engage a person external to their workplace or organisation to certify a risk management plan. If the employer does not have the relevant expertise in-house they need to engage a suitably qualified person to provide that expertise. The intent of the requirement is; in relation to the activities meeting the definition of “hazardous activities”, for the employer to identify and consider the hazards and how they will control them prior to commencing an activity and to develop a RMP. If they do not have the expertise to develop a safe system of work for the activity, this requirement will necessitate them obtaining that expertise in order to meet the requirement to submit a RMP.

How do I submit a RMP to NT WorkSafe?

Risk Management Plans for mining operations must be provided to the Work Assignment Team at NTWS; individual officers cannot receive these plans on behalf of the Authority. Plans can be submitted either by hand, mail or electronically and marked attention to the ‘Work Assignment Team’ as detailed below:

In person	Mail	Electronic	Fax
Attention: Work Assignment Team			
NT WorkSafe Darwin Plaza First Floor 41 Smith Street, The Mall Darwin NT 0800	NT WorkSafe GPO Box 1722 Darwin NT 0801	ntworksafe@nt.gov.au	(08) 8999 5141

NT WorkSafe >

Telephone: 1800 019 115
Facsimile: (08) 8999 5141
Email: ntworksafe@nt.gov.au
Website: worksafe.nt.gov.au