

Realising a Safe and Healthy Mining Industry -

The Contribution of Government

Introduction

All stakeholders in the Australian mining industry need to demonstrate their commitment to creating a safe and healthy mining industry. While the primary responsibility for health and safety rests with the industry parties, governments have an important contribution to make in support of realising a safe and healthy mining industry. This paper sets out the framework for a uniform approach to making this contribution.

This framework document has been prepared in consultation with stakeholders in each jurisdiction and represents views from across Australia, New Zealand and Papua New Guinea. It is consistent with the National OHS Improvement Framework, prepared by the National Occupational Health and Safety Commission in 1999 to foster 'learnings' across industries. The document describes the means by which governments should contribute to the application of this general OHS framework to the mining industry.

A uniform approach aims to:

- ensure legislative consistency so that the duties of stakeholders in the industry are clear and unambiguous;
- foster innovation and improvement; and
- remove duplication of effort.

The approach to the role of government set out by this framework challenges all stakeholders to work together to create a safe and healthy mining industry.

Aim and principles

The primary purpose of government action in OSH is to support a safe and healthy mining industry. To do this, government's contribution should:

- be nationally consistent, both within the mining industry and with other industries;
- encourage action by stakeholders at an enterprise level;
- be based on and foster a best practice approach and a continuous improvement focus that does not inhibit innovation; and
- recognise that responsibility for health and safety at mine sites rests with employers and employees, while ensuring that senior management holds the accountability for leadership.

The role of government

In order to fulfil the above aim and principles, governments have the following roles:

- work within a nationally consistent legislative framework (without inferring a particular structure for administering the framework);
- support OSH competency development in the industry;
- provide support for enterprises and other duty holders to facilitate compliance;
- undertake enforcement activities that support improved performance and meet community expectations for enforcing the law;
- collect and use consistent, reliable and useful data about OSH performance;
- foster regional and, where relevant, national and trans-national consultation between stakeholders to ensure that information flows to promote improvement in industry practices; and
- foster effective research into OSH in mining so that evidence can inform prevention activities.

Goals for government in mining

Arising from the National OHS Improvement Framework and the role of government in mining, the goals for government in mining are to:

- establish a consistent legislative framework, based on a general ‘duty of care’ approach;
- support the development of OSH competencies and competency assessment consistent with national training frameworks;
- develop a cooperative approach to providing advisory information for duty holders to assist them in achieving compliance, recognising different needs (eg small versus large enterprises);
- update and publicise enforcement strategies so that duty holders understand the consequences of noncompliance and these are consistent across jurisdictions;
- establish consistent and reliable OSH performance data collection, analysis and publication systems so that decisions in relation to prevention efforts can be based on valid information;
- establish effective approaches to regional, national and trans-national consultation with stakeholders; and establish open communication and coordination between the jurisdictions to support structured and strategic approaches;
- establish strategies to support effective research into safety and health in the mining industry.

Strategies to achieve the goals

Achieving the above goals should not involve duplication of effort nor creating another level of government. Primarily, strategies for achieving these goals require information sharing and cooperation between jurisdictions. In order to work towards the above goals, the following strategies should be developed:

1. *Legislative framework*

A nationally consistent legislative framework is essential for an efficient, effective and equitable regulatory system for the industry. This does not mean that OSH legislation should be identical in each jurisdiction. Rather, an agreed framework should be established, consistent with the requirements of the International Labor Organisation Convention 176 "Safety and Health in Mines" (ILO C176), with the following key features:

- A general duty of care approach should be taken - covering the range of duty holders, including directors, managers, contractors, employees, manufacturers, designers and suppliers - with any mining specific requirements.
- A systematic approach to mine safety management should be promoted,
- Mechanisms for ensuring effective consultation with employees should be included,
- Major hazards that may be found in the mining industry must be addressed within the legislative framework. The risk management requirements of ILO C176 should be adopted, and an approach to risk management using the Hierarchy of Control and based on the As Low As Reasonably Practicable (ALARP) principles should be promoted. Risk management legislation should require attention to the core risks of the industry, ensuring that high consequence, low probability events are addressed.
- Definitions of different concepts should so far as possible be consistent and the equivalence of different terms should be clear.
- Regulation should allow duty holders to develop the most effective OSH management strategies for their circumstances, supporting enterprises to move beyond regulatory requirements.

Recommendation

The jurisdictions should agree on a consistent legislative framework, incorporating ILO C176 requirements and these key features.

2. *OSH competency development*

OSH is integral to the competence of people in the industry and governments should support the development of competency in OSH. Development and maintenance of OSH competence is the responsibility of the industry, with governments involved in monitoring standards. OSH competency development should be consistent with the industry's national training frameworks, which provide a consistent approach to competency development in the mining industry based on agreed industry Training Packages. The certification of particular occupations by OSH jurisdictions parallels the industry's qualifications framework through the Australian Recognition Framework. In addressing this apparent duplication, governments

need to ensure that standards of OSH competence are maintained without the expense and inefficiencies associated with running two parallel systems.

Recommendation

Consideration should be given to working with the mining industry's training advisory body network to support a uniform competency system that ensures that standards of OSH competence are maintained.

3. Compliance support

All jurisdictions provide advice and support to mine sites so that duty holders are better equipped to comply with their OSH obligations. A cooperative approach is needed to ensure that unnecessary costs and duplications of effort are avoided, and to facilitate the interchange of knowledge and expertise. In particular, coordination between agencies will help to create consistent guidance material that contributes to raising the awareness of duty holders. Consistent strategies for dealing with the diversity of duty holders will help to ensure that particular needs (eg for small operations) are met in an efficient way.

Recommendation

A mechanism for coordination between agencies should be established to support the creation of consistent guidance material that facilitates the exchange of knowledge and expertise, and recognises accepted standards.

4. Enforcement

A consistent approach to enforcement would provide clear and consistent standards for duty holders and support equitable outcomes from governments' contribution to safety and health in the mining industry. This does not necessarily mean that a single enforcement policy should be developed, but that jurisdictions' strategies for enforcement should be aligned and consistent. Jurisdictions currently take an approach that consists of a graduated series of options, with persuasion and verbal directions as the starting point, progressing through written instructions, improvement notices, prohibition notices and finally prosecution as a last resort. This is generally referred to as the *Enforcement Pyramid*.

Recommendation

Strategies for enforcement should be aligned and consistency achieved across jurisdictions.

5. Data collection

A nationally consistent data set is needed to inform of the activities of industry, as well as government. The data set should include:

- outcome data, such as claims data and agreed injury frequency rates;
- lead indicators of systems and culture to provide data relating to the implementation of preventive strategies;
- data relating to critical incidents that do not result in injury;
- data compatible with the Comparative Performance Monitoring data set of the general OSH jurisdictions so that comparisons are possible between jurisdictions and across industries; and
- data addressing the activities of governments, eg in enforcement and compliance support.

Recommendation

Action should be taken to develop such a data set that enables comparisons across jurisdictions and industries.

6. Consultation

Consultation with industry stakeholders is critical to ensure the effectiveness of governments' contribution to OSH in the industry. Given that the legislative accountability lies with each jurisdiction this consultation will continue to be focussed at this level. Where necessary, resources should be directed at a jurisdictional level to strengthen consultative processes. Wherever possible these consultative processes should seek to move towards consistent outcomes.

Recommendation

Continued stakeholder consultation through jurisdictional processes should be encouraged. Consultation processes should seek to achieve consistent cross-jurisdiction outcomes.

7. Research

Governments have an important role in encouraging research, in partnership with industry and research and funding agencies. In particular, government should be involved in helping to set priorities, providing advice to researchers and in establishing research partnerships. Government can contribute to the effective application of research findings by using evidence from research to modify where appropriate their own activities, and to encourage the adoption of findings to prevention activities by duty holders.

Recommendation

Consideration should be given to establishing appropriate mechanisms for governments to support effective research into OSH in the mining industry.

Implementation

The strategies outlined in this framework should be further developed in consultation with stakeholders in each jurisdiction. This should result in an agreed work program for presentation to the *Ministerial Council on Minerals and Petroleum Resources*.

The Conference of Chief Inspectors of Mines should drive this development.

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Purpose

To support a safe and healthy mining industry, through:

- consistency across jurisdictions;
- encouraging action by stakeholders at an enterprise level;
- using a best practice approach and a continuous improvement focus; and
- recognising that primary responsibility for health and safety at mine sites rests with employers and employees, while ensuring that senior management holds the accountability for leadership.

Goals

1. A consistent legislative framework, based on 'duty of care'	2. Competency development within the mining industry	3. A cooperative approach to providing support for duty holders in compliance	4. Updated and aligned enforcement strategies	5. Consistent and reliable mining OSH performance data collection, analysis and distribution systems	6. Effective approaches to consultation with stakeholders and coordination between jurisdictions	7. Strategies to encourage effective research into safety and health in the mining industry.
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Actions

Establish a consistent legislative framework across jurisdictions, incorporating ILO C176 requirements	Consider working with the mining industry's training advisory body network to support uniform competency establishment and assessment systems, recognised by the respective national training authorities..	Establish a mechanism for coordination between agencies to support the creation of consistent guidance.	Align jurisdictions' strategies for enforcement to achieve consistency.	Develop a consistent and reliable OSH data set, in partnership with NOHSC that enables comparison across jurisdictions and industries.	Strengthen and encourage regional, national and transnational consultation mechanisms.	Establish appropriate mechanisms for governments to encourage effective research into OSH in the mining industry.
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