



Submission to

Safe Work Australia

Draft Model Codes of Practice - Mining

October 2011

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Introduction

1. Thank you for the opportunity to provide this submission to the public consultation of the draft model Work Health and Safety Codes of Practice (CoP).
2. The Association of Mining and Exploration Companies (AMEC) is the peak industry body for mineral exploration and mining companies within Australia. The membership of AMEC comprises over 330 explorers, emerging miners and the companies servicing them.
3. AMEC's strategic objective is to secure an environment that fosters mineral exploration and mining in Australia in a commercially, politically, socially and environmentally responsible manner.

Executive Summary

4. AMEC supports the principle of national harmonisation of Work Health and Safety laws and associated regulatory instruments. If achieved, it will deliver significant benefits industry and Government by removing duplication across states, improving efficiency and ultimately reduce or prevent work place incidents.
5. AMEC's submission has been prepared with assistance from its expert industry-based Safety Working Group (SWG). The SWG members include mine operators, mining health, safety and environmental officers (HSE Officers) and lawyers specialising in worker health and safety. In addition to the SWG, AMEC has consulted its wider membership and will continue to do so as national harmonisation is implemented by Australian governments.
6. This submission is in two parts. The first part consists of general commentary with respect to the suite of Codes of Practice (CoP). The second part is in the tabular format of the submission template supplied by Safe Work Australia and it provides specific comments to individual Codes of Practice.

Recommendations

7. **AMEC recommends that Safe Work Australia:**
 - 7.1 **Develops and documents the process for updating or creating new Codes of Practice prior to the adoption of the Model Regulations;**
 - 7.2 **Ensures that the suite of model Codes of Practice follow the same format; and**
 - 7.3 **Considers the comments and suggestions made in Part 2 of this submission for inclusion in the Model CoP.**

Part 1 - General Commentary on Issues Paper and the Draft Codes of Practice

8. AMEC supports the use of CoP as they provide a flexible approach for delivering safety outcomes as they can be updated without the need for legislative amendments. CoP also have the added benefit of being able to include current industry best practice and therefore raise the standard of safety across the entire industry.

Creation and Update of Codes of Practice

9. However, while the Model Work Health and Safety Bill makes provision for the Codes of Practice and specifies the consultation parties (Governments, unions and employer organisations), AMEC is unaware of any documentation that explains the process for how changes will be made to existing Codes or for the future development of new Codes. For example, describing who initiates a new code, review periods, e.g. 1, 2 or 5 year reviews, and specifying consultation periods.
10. AMEC considers that the process for should be documented, either through a policy document or through regulation or guidance before the adoption of the Model Regulations. By doing this AMEC considers it will prevent unforeseen issues, perhaps even legal issues, arising in the future. An undesirable consequence is that industry best practice is not reflected in the codes, and is therefore not translated to all operations which in turn could pose unacceptable risks to workers.

Recommendation

11. **AMEC recommends that Safe Work Australia develops and documents the process for updating or creating new CoP prior to the adoption of the model regulations.**

Consistency of Codes of Practice Structure

12. There are considerable differences between the structures of the CoP. It is highly likely that a mine operator will have a number of CoP on hand that they will use to both develop their Safety Management Systems and as reference materials. Therefore consistency across the CoP will make interpretation and use easier and avoid any ambiguity and confusion.
13. AMEC suggests that the CoP should follow a format that mirrors the regulations, of which the CoP for *Roads and Other Vehicle Operating Areas* follows, that is:
 - Background and description of principal hazard,
 - Assessment of risks associated with principal hazard,
 - Control of risks associated with principal hazard, and
 - Review of risk control measures associated with principal hazard
14. The CoP should also address each of the “Additional Matters to be Considered” as outlined in Schedule 9.2 of the draft WHS Regulations. It is unclear, due to the differing structures, whether the entire suite of CoP adequately addresses these matters.

Recommendation

15. **AMEC recommends that Safe Work Australia ensures that the suite of model Codes of Practice follow the same format.**

Part 2 - Specific Commentary on the Draft Codes of Practice

16. AMEC's considers the comments and suggestions contained in the tables below will improve the Model Codes of Practice.

Recommendation

17. AMEC recommends that Safe Work Australia considers the comments and suggestions for inclusion in the Model CoP.

Codes of Practice	
Roads and Other Vehicle Operating Areas	
Section/page number	Comment
4.1 / 10	Drainage. Reference is made that <i>"roads should also be constructed so direct water can run off the road as quickly as possible and limit or prevent ponding or erosion"</i> . AMEC appreciates the intent; however, it considers that cambers should be designed to allow for effective drainage without compromising the safe travel of all vehicles using the road. For example, with large mining trucks it is important that the camber of the roadway does not inadvertently cause a vehicle to drift into the path of an oncoming vehicle. Excessive camber can cause this occur with the potential for collision.
4.1 / 10	Road Surface. Consideration should be given to managing the risks associated with the use of dust suppressants on road surfaces. Many of these suppressants can affect the surface friction and contribute to rapid road deterioration during extreme wet weather.
4.1 / 11	Intersections. AMEC considers that the use of 3 way "T" intersections where possible is not always the only safe solution. Advice from AMEC's SWG suggests that intersections that can be modified safely (using for example, heavy duty traffic control barriers) to allow safe passage for priority hauling vehicles and control the intersection of ancillary vehicles. In addition, 'merging lanes' on a mine site which requires all traffic to give way to merging traffic can also be safely used (as per the existing road rules for freeways etc). If the mine operator follows the listed measures then there should be no reason to restrict the type of intersection design. Therefore AMEC suggests the removal of this point.
4.1 / 12	Workshops and fixed plant areas. Specific requirements should be given to establishing safe systems and procedures that provides for the safe

	and controlled entry and exit of vehicles in and out of congested/confined work areas such as workshops and around fixed plant.
4.7 / 14	Lighting. AMEC considers that there is an opportunity to significantly improve safety and lift industry standards by including specific requirements to improve visibility during all hours. For example, all operating mine vehicles will have 'headlights on' at all times and installation of 'high visibility striping' and 'vehicle identification numbers'.
WHS Management Systems in Mining	
Section/page number	Comment
2.3 / 8 & 9	AMEC commends the intent , however to maintain consistency the WHS Management System should be aligned and include each element of the established Australian/New Zealand Standards (AS/NZS 4801). From an auditing perspective, this will ensure that the WHS Management System is easily able to be audited against defined and consistent criteria as supported by the Standard.
Emergency Response in Australian Mines	
Section/page number	Comment
	This CoP needs to be amended to improve its focus. It is unclear whether it is a generic COP, underground CoP or an aboveground CoP. It often switches between all three which makes some parts irrelevant depending upon the type of mine being operated.
1.1 / 6	The use of the phrase 'require the mine operator to consult with the emergency services' in the regulations and its use in the CoP is problematic. This is because it implies a possible large list of potential services, for example, depending on the location an operator may consider they need to consult a combination of the following - St Johns, police, relevant emergency services authorities, State Emergency Services, Local Shire Council, The Royal Flying Doctor Service, local hospital(s), nursing posts and community health centres, Volunteer Bushfire Brigades, Rescue Helicopter Services, Surf Lifesaving Australia and similar, Ports and Harbours, local Reserve Army, any Australian Defence Force facility in close proximity, the gas company and more. The insertion of the words 'most relevant', maybe a possible solution, that is, 'requires the mine operator to consult with the most relevant emergency services'.
6.2 / 15	This section discusses 'self-rescuers', but does not define what constitutes an acceptable type of 'self-rescuer'. AMEC suggests the insertion of

	a sentence as follows “A self rescuer must be suitable and appropriate for the mine type”.
6.4 / 15	While this section refers to ‘any potential fire’, which is necessarily broad, further guidance could be considered for the types of equipment required for different fire types.
7.4 / 18	This section should include a section on monitoring weather patterns which may cause exceptionally high rainfall events – re Emu Mine Disaster of 1989.
7.13 / 23	This section should be written so that the self-rescuer equipment is of a modern standard appropriate to the mine
7.15 / 23	This section makes an unnecessary reference to underground coal mines in a generic Emergency Response CoP. This section could also include a statement as to sufficient numbers or capacities of refuge chambers for the number of persons working in a given area.
7.15 / 23	There is a reference that “ <i>refuge chambers need to be practical and have the basic elements necessary to sustain life for <u>significant periods of time</u> following a fire or explosion</i> ”. This is too open ended, and should suggest a minimum period of time e.g. 24 hours (subject to the outcome of a risk assessment relating to the nature of the mine and mine response capabilities).
7.16 / 24	This is a very coal-oriented point with little application in underground metaliferous mines, where the amount of overhead cover can be quite significant.
7.18 / 25	<p>The AMEC submission on the draft WHS regulations highlighted the inappropriateness of regulation 9.2.37 (3) in the context of a metaliferous underground mine. If the AMEC suggestion is accepted then this point should be removed from the CoP. High speed vehicular escape systems are extremely difficult, to impossible, to implement for underground metaliferous mines, and therefore they should NOT be considered a ‘primary object’.</p> <p>AMEC also highlights the ambiguity of ‘should consider “segregated intake secondary means of egress”’. It could be read to mean that twin declines SHOULD be driven in a decline mine – installation of such a feature, would render a number of projects uneconomically viable.</p>
Health Monitoring in Mining	
Section/page number	Comment

1.2 / 6 and 2.1 /10-11	This CoP seems to be confused in respect of its focus. At 1.2 / 6 first paragraph, “In this document, health monitoring refers to health monitoring in relation to exposure to hazardous chemicals in mining”. However, the document states at 2.1/10-11, “Additional health monitoring must be carried out for the following <u>activities</u> or chemicals that may be present at the mine site: <u>Heat Stress, Noise and Vibration</u> ” all of which are not, in the main, associated with hazardous chemicals.
3.6 / 16	How long to keep a record. The CoP states 30 years, however the regulations have two levels, 30 and 7 years depending upon the hazard. This should be clarified in the CoP.
4 / 17 and 5 / 18 8 th dot point	The CoP and the regulations are not quite in synch with regards to reporting to the regulator. The regulations make reference to specific types of recommendations, i.e. 9.3.5 (4) (a) remove a worker from a hazard; or (b) assign a worker to different work. The CoP seems to imply all types of advice/recommendations need to be forwarded to the regulator. The same issue arises at 5 / 18 8 th dot point.
	General Comment. AMEC considers the exclusion of other health issues such as noise and vibration is an oversight and should be included in the CoP.
1.5 / 9	Health monitoring. The reference to health monitoring should be consistent with existing mine safety Acts & Regulations. Typically, it is not practicable for health monitoring to commence before the worker starts work at the mine. The Mine Safety Inspection Regulations 1995 – Western Australia (3.25 (1) (b)) require that a new employee complete an initial health assessment, “if practicable, before the day on which the person commences work at the mine or, if that is not practicable, within 3 months after that day”. This reference should be replicated within the new Model Regs and COP’s for Mines.
1.6 / 9	Health monitoring. Reference is made to conducting health monitoring “at a frequency determined by the mine operator in consultation with a medical practitioner and the timing of the monitoring’. <ul style="list-style-type: none"> • In Regulation 9.3.4 (3) (c) it states ‘registered medical practitioner’ so the terminology is not consistent. • Health monitoring frequency should also be determined by ‘the results of exposure monitoring’.
Appendix A – Notes 5 / 21	5 – Workers must: <ul style="list-style-type: none"> • A responsibility should be included that a worker must ‘attend an end of employment health assessment prior to ceasing employment’. <p>This will assist with clarifying any liability of the Employer following the cessation of employment by the worker. Many workers refuse to have this pre end of employment assessment. Some obligation must be placed on them to attend if the employer covers the cost.</p>

Survey and Drafting Directions for Mine Surveyors	
Section/page number	Comment
Appendix B / 356	<p>Meaning of Key Terms</p> <ul style="list-style-type: none"> Reference is made to the meaning of a 'Mine Surveyor' as "A Registered/Authorised/certified mine surveyor who is nominated/appointed by the mine operator to be responsible for the conduct of surveys and preparation of plans for the mine". This definition is ambiguous as the person is still referred to throughout the COP as a 'Mine Surveyor'. <ul style="list-style-type: none"> AMEC recommends that this person be referred to as a 'Registered Mine Surveyor' AMEC recommends that the COP should state what the minimum qualifications should be for persons to be eligible to be recognised as the 'Mine Surveyor'
1.3 /6	<p>Functions of a Mine Surveyor.</p> <p>If the above recommendation is adopted, the functions of the 'Registered Mine Surveyor' should be clarified in the COP.</p>
7.6 & 7.7 / 19	<p>Escape and Rescue Plan (underground operations) and Surface Plan.</p> <p>AMEC recommends that these plans (and any other applicable plans) should be referenced in the COP for 'Mine Closure' and vice versa.</p>
Mine Closure	
Section/page number	Comment
2.13 / 11	<p>Other Considerations – Access to the Mine Site</p> <p>Second sentence: Reference to 'so far as is practicable' should be included in regards to considerations to prevent access to a closed mine by all forms of transport (like the reference under 4.6 / page 16 of the same COP).</p>
4 / 17	<p>Implementation of Controls</p> <ul style="list-style-type: none"> A section should be included that requires that applicable plans such as 'Escape and Rescue Plan (Underground operations)', 'Surface Plan' and 'Site Services plan' etc are made available to local shire councils and/or emergency services agencies to enable them to

	<p>respond to an emergency incident at a abandoned/closed mine.</p> <ul style="list-style-type: none">• Any applicable plans required by the 'Survey and Drafting Directions for Mine Surveyors' COP should also be referenced in the Mine Closure COP and vice versa.
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