



New South Wales

Occupational Health and Safety Amendment (Major Hazard Facilities) Regulation 2010

under the

Occupational Health and Safety Act 2000

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Occupational Health and Safety Act 2000*.

MICHAEL DALEY, MP
Minister for Finance

Explanatory note

Currently, a person operating a potential major hazard facility must provide a notification in the approved form to WorkCover every 12 months. The object of this Regulation is to remove that requirement and instead provide that a person operating a potential major hazard facility must notify WorkCover of any material change to the facility.

This Regulation is made under the *Occupational Health and Safety Act 2000*, including section 33 (the general regulation-making power).

2010 No 576

Clause 1

Occupational Health and Safety Amendment (Major Hazard Facilities)
Regulation 2010

**Occupational Health and Safety Amendment (Major
Hazard Facilities) Regulation 2010**

under the

Occupational Health and Safety Act 2000

1 Name of Regulation

This Regulation is the *Occupational Health and Safety Amendment
(Major Hazard Facilities) Regulation 2010*.

2 Commencement

This Regulation commences on the day on which it is published on the
NSW legislation website.

Schedule 1 Amendment of Occupational Health and Safety Regulation 2001

[1] Clause 175EA

Insert before clause 175F in Part 6B.4:

175EA Definition

In this Part, a *hazard facility notification* means a notification given under clause 175F or 175FA.

[2] Clause 175F Notification by operators and intended operators of major hazard facilities and potential major hazard facilities

Omit “in accordance with clause 175G” from clause 175F (1).

[3] Clause 175F (2)

Omit “under this clause”.

Insert instead “within a period specified by WorkCover”.

[4] Clause 175F (3)

Omit the subclause. Insert instead:

- (3) A person must comply with a requirement made by WorkCover under this clause.

[5] Clause 175F (4)

Omit the subclause.

[6] Clause 175F (6)

Omit clause 175F (6)–(8). Insert instead:

- (6) For the purposes of this clause, a person *intends to be the operator of a major hazard facility or a potential major hazard facility* if:
- (a) the person intends to be the operator of a major hazard facility or a potential major hazard facility that is:
 - (i) designed but not constructed, or
 - (ii) under construction, or
 - (iii) constructed but not yet operational, or
 - (b) the person is the operator of a facility (not being a major hazard facility or a potential major hazard facility) and intends to make alterations to the facility that will result in

2010 No 576

Occupational Health and Safety Amendment (Major Hazard Facilities)
Regulation 2010

Schedule 1 Amendment of Occupational Health and Safety Regulation 2001

the facility becoming a major hazard facility or a potential major hazard facility, or

- (c) the person is the operator of a potential major hazard facility and intends to make alterations to the facility that will result in the facility becoming a major hazard facility.

[7] Clause 175F, maximum penalty

Omit “, (3), (4) and (7)”. Insert instead “and (3)”.

[8] Clause 175FA

Insert after clause 175F:

175FA Notification by operators of potential major hazard facilities of material change

- (1) A person who is the operator of a potential major hazard facility must notify WorkCover of any proposed material change to the facility.

Maximum penalty: Level 4

Note. Clause 175L provides that an operator must not operate a major hazard facility unless the facility is registered or provisionally registered.

- (2) A notification under this clause must be given at least 10 days before the material change to the potential major hazard facility occurs.
- (3) On receiving a notification under this clause, WorkCover is to send the person a written acknowledgement of the notification.
- (4) In this clause, *material change* to a potential major hazard facility means any change, as a result of which:
- (a) a Schedule 8 material that was not included in the most recent hazard facility notification for the facility is present or likely to be present at the facility in a quantity that exceeds 10% of its threshold quantity, or
- (b) the aggregate quantity ratio of Schedule 8 materials present or likely to be present at the facility exceeds 0.7.

[9] Clauses 175G Content of hazard facility notification

Omit “Notification given under clause 175F”.

Insert instead “A hazard facility notification”.

[10] Clause 175H WorkCover may request further information

Omit “notification under clause 175F”.

Insert instead “a hazard facility notification”.

[11] Clauses 175M (4) and 356 (2) (b1)

Insert “or 175FA” after “clause 175F” wherever occurring.

[12] Clause 175ZD Records

Omit “notified WorkCover of an intention to operate a major hazard facility or a potential major hazard facility under clause 175F” from clause 175ZD (3).

Insert instead “given WorkCover a notification under clause 175F or 175FA”.

[13] Schedule 2 Penalty notices

Insert in Column 1 and 2 respectively after the matter relating to clause 175F:

Clause 175FA (1)

600