



New South Wales

# Work Health and Safety (Mines and Petroleum Sites) Amendment (Carbon Dioxide Exposure Standards) Regulation 2021

under the

Work Health and Safety (Mines and Petroleum Sites) Act 2013

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Work Health and Safety (Mines and Petroleum Sites) Act 2013*.

PAUL TOOLE, MP  
Minister for Regional New South Wales

## Explanatory note

The object of this Regulation is to amend the *Work Health and Safety (Mines and Petroleum Sites) Regulation 2014* for the following purposes—

- (a) to prescribe carbon dioxide exposure standards for underground coal mines to ensure the standards are not exceeded,
- (b) to make minor amendments in the nature of statute law revision.

This Regulation is made under the *Work Health and Safety (Mines and Petroleum Sites) Act 2013*, including sections 4 and 76, the general regulation-making power, and Schedule 2. See also the *Work Health and Safety Act 2011*, including section 276, the general regulation-making power, and Schedule 2.

## **Work Health and Safety (Mines and Petroleum Sites) Amendment (Carbon Dioxide Exposure Standards) Regulation 2021**

under the

Work Health and Safety (Mines and Petroleum Sites) Act 2013

### **1 Name of Regulation**

This Regulation is the *Work Health and Safety (Mines and Petroleum Sites) Amendment (Carbon Dioxide Exposure Standards) Regulation 2021*.

### **2 Commencement**

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

## **Schedule 1 Amendment of Work Health and Safety (Mines and Petroleum Sites) Regulation 2014**

**[1] Clause 39, heading**

Insert “and carbon dioxide” after “matter”.

**[2] Clause 39(1A)**

Insert after clause 39(1)—

(1A) Without limiting subclause (1), the operator of an underground coal mine must, so far as is reasonably practicable, minimise the exposure of persons to carbon dioxide in the mine and must ensure no person in the mine is exposed to an 8-hour time-weighted average atmospheric concentration of carbon dioxide that exceeds—

(a) for short term exposure limits—30,000 parts per million, or

(b) otherwise—12,500 parts per million.

Maximum penalty—

(a) for an individual—\$6,000, or

(b) for a body corporate—\$30,000.

**[3] Clause 39(2)**

Insert “or (1A)” after “(1)”.

**[4] Clause 39(3)**

Insert in alphabetical order—

*short term exposure limit* has the same meaning as in the *Workplace Exposure Standards for Airborne Contaminants*.

**[5] Clause 40**

Omit the clause. Insert instead—

**40 Monitoring exposure to airborne dust and diesel particulate matter and carbon dioxide**

The WHS Regulations, clause 50 applies to—

(a) the operator of a mine or petroleum site in relation to airborne dust and diesel particulate matter as if the concentrations referred to in clause 39(1) were exposure standards to which the WHS Regulations, clause 50 applies, and

(b) the operator of an underground coal mine in relation to carbon dioxide as if the concentrations referred to in clause 39(1A) were exposure standards to which the WHS Regulations, clause 50 applies.

**[6] Clause 71A**

Insert after clause 71—

**71A Air quality—minimum standards for ventilated air**

(1) The mine operator of an underground coal mine must ensure that the ventilation system for the mine provides air that is of sufficient volume, velocity and quality to ensure that the general body of air in the areas in which persons work or travel has carbon dioxide levels that—

- (a) are as low as is reasonably practicable, and
- (b) do not exceed the relevant levels specified in clause 39(1A).

Maximum penalty—

- (a) for a corporation—\$30,000, or
  - (b) otherwise—\$6,000.
- (2) This clause does not apply in relation to an area of the underground coal mine—
- (a) that is required to be entered in an emergency or for a mines rescue purpose or to rectify a failure of the ventilation system, and
  - (b) in which all persons are using self-contained breathing apparatus.

**[7] Clause 122 Survey plan must be prepared**

Omit the definition of *Geocentric Datum of Australia* from clause 122(11).

Insert instead—

*Geocentric Datum of Australia* has the same meaning as in the *Surveying and Spatial Information Act 2002*.

**[8] Clause 145 Register of practising certificates**

Omit clause 145(5), definition of *certification agency*, paragraphs (a) and (b).

Insert instead—

- (a) Resources Safety & Health Queensland,
- (b) Government of Western Australia Department of Mines, Industry Regulation and Safety,

**[9] Clause 145, definition of “certification agency”, paragraphs (d) and (e)**

Omit the paragraphs. Insert instead—

- (d) the South Australian Department for Energy and Mining,
- (e) NT WorkSafe,

**[10] Clause 185 Exemptions granted by regulator**

Omit the clause.

**[11] Schedule 9 Information to be included in work health and safety report**

Insert “for 1 day or more” after “restricted duties” in clause 12.

**[12] Schedule 12 Savings and transitional provisions**

Insert at the end of the Schedule with appropriate Part and clause numbering—

**Part Provision consequent on commencement of Work Health and Safety (Mines and Petroleum Sites) Amendment (Carbon Dioxide Exposure Standards) Regulation 2021**

**Transitional arrangements for survey plans**

- (1) Despite this Regulation, clause 122, during the transition period a survey plan for a mine or petroleum site required by the Regulation, clause 122 may reference the mine or petroleum site to the Geocentric Datum of Australia as

defined in Commonwealth of Australia Gazette No. 35 of 6 September 1995 at page 3369.

(2) In this clause—

**amending Regulation** means the *Work Health and Safety (Mines and Petroleum Sites) Amendment (Carbon Dioxide Exposure Standards) Regulation 2021*.

**transition period** means the period starting on the commencement of the amending Regulation and ending on 15 May 2022.