

FACT SHEET

Changes to Work Health and Safety (Mines and Petroleum Sites) notifications to the Regulator

Introduction

Amendments to the Work Health and Safety (Mines and Petroleum Sites) Regulation 2014 will take effect from 1 February 2020. This fact sheet provides guidance on changes to notifications to the NSW Resources Regulator as a result of these amendments.

Notifications to the regulator

Duty to notify regulator of certain incidents – clause 128

In the definitions of ‘high potential incidents’ three additional incidents have been added to clause 128(5):

- (t) an uncontrolled fire on mobile plant that is in operation (whether operated directly, remotely or autonomously)
- (u) a loss of control of heavy earthmoving machinery that is operated remotely or autonomously, including any failure in braking or steering
- (v) spontaneous combustion occurring at the surface of a coal mine (including an underground coal mine).

Uncontrolled fire on mobile plant – clause 128(5)(t)

An uncontrolled fire on mobile plant is any fire or ignition that is not intended as part of the normal function of that item of mobile plant. This applies regardless of the level of damage or means of extinguishing the fire. Examples of fires and ignitions that are intended include internal combustion, flame heaters such as on bitumen tankers and maintenance works such as welding and oxy cutting (unless control is lost during the task).

This clause also requires fires to be notified when they occur on autonomous plant operating without a worker present.

Any fire underground in a mine, including a fire on mobile plant, must still be reported as a dangerous incident under cl 179 (b).

Where a worker or any other person is exposed to a serious risk to the person's health or safety from fire the incident must be notified as a dangerous incident under cl 179(a)(ii).

Mobile plant is defined as any item of plant that is self-propelled and ordinarily under the direct control of an operator. This also includes items of plant that are capable of being directly operated but are being operated autonomously or under remote control. Mobile plant does not include transportable plant which is relocated to be operated such as generators, diesel pumps and lighting towers.

Loss of control of heavy earthmoving machinery operated remotely or autonomously - clause 128(5)(u)

Previously, if an autonomous or remotely controlled item of plant lost control it may not have been notifiable under WHS (MPS) Regulation clause 179(a)(xi) if a worker was not exposed to the risk. This clause has been added so the regulator can monitor all loss of control incidents. This is of concern as autonomous and person-operated vehicle interactions increase and loss of control incidents may then result in workers exposed to risk. This applies to loss of function of steering or braking, however events such as a retarder failure where the service brakes are used to maintain control are not notifiable under this clause.

Regardless of person-operated or autonomous operations, when an incident occurs and a worker is at risk, this must still be reported as a dangerous incident under WHS (MPS) Regulation clause 179 (a)(xi).

Spontaneous combustion occurring at the surface of a coal mine – clause 128(5)(v)

Spontaneous combustion at a coal mine was previously specified as a dangerous incident. The inclusion of clause 128(5)(v) provides that spontaneous combustion on the surface of a coal mine is now considered a high potential incident. This includes spontaneous combustion at the surface of an underground coal mine. However, if a worker or any other person is exposed to a serious risk to the person's health and safety this continues to be a dangerous incident under clause 179.

Dangerous incidents – clause 179

References to spontaneous combustion under clause 179 Dangerous Incidents have changed to align with the new classification of some spontaneous combustion incidents as ‘high potential incidents’ under clause 128(5)(v). Clause 179(h), which classified all spontaneous combustion at a coal mine as a dangerous incident, has been removed. A new clause 179(a)(xix) has been inserted which makes spontaneous combustion incidents at a coal mine a dangerous incident where it exposes a worker or any other person to a serious risk to a person’s health or safety. Clause 179(d) continues to require any initial indication that any underground part of a coal mine is subject to spontaneous combustion to be reported as a dangerous incident.

Duty to notify regulator of other matters – clause 129

Clause 129 has been amended to remove the requirement to give the regulator at least one month’s notice before operations at a mine commence, and to no longer require the coordinates of exploration drill holes. This change means notice is only required **before** mining operations commence.

Work health and safety reports – clause 130

Clause 130 has been amended to remove the reference to ‘quarterly’ and to refer only to work health and safety (WHS) reports. This means mine operators only have to provide WHS reports for the whole year, and not as separate quarterly reports.

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