

Submission to MBIE



Health and Safety at Work (Worker Engagement, Participation and Representation) Regulations 2016

30 October 2015

**SUBMISSION OF
THE NEW ZEALAND MINING INDUSTRY
SAFETY COUNCIL (MINEX)
TO MINISTRY OF BUSINESS, INNOVATION AND EMPLOYMENT
ON**

**Health and Safety at Work (Worker Engagement,
Participation and Representation) Regulations 2016**

30 October 2015

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Introduction

MinEx¹ welcomes the opportunity to submit on the *Workplace Health and Safety at Work (Worker Engagement, Participation and Representation) Regulations 2016*. We note the submission deadline of 30 October 2015.

This is a submission on behalf of all of the Extractive industry. A list of MinEx members is attached.

MinEx broadly supports the submissions by the Business Leaders Health and Safety Forum (BLHSF), BusinessNZ, and E tū.

This submission will focus on those matters on which MinEx wishes to place emphasis.

Submission

MinEx strongly supports the principles of worker engagement, participation and representation in health and safety at work and has consistently done so throughout the legislations changes affecting the industry since Safe Mines : Safe Workers.

Scope of the Regulations

We share the BLHSF's concern that the focus in the regulations on representatives, committees and related processes, risks taking way from the more general issue of engaging workers in consultation on workplace health and safety matters.

If the wording of the Regulations stays as it is, it will be important to produce timely guidance on how PCBUs might go about complying with the Regulations, especially in light of the very broad scope of the Regulations. Very small companies and operations will struggle to understand their obligations under these Regulations.

Ratio of workers to representatives

We wish to emphasis our full support of the views expressed by the BLHSF on this issue. The number of workplace H & S representatives ought to reflect the risks associated with the workplace, and how the workplace and workers are arranged, e.g., nature of shifts.

To refer to the overarching legislation, the PCBU must engage with its workers on all matters relating to workplace H & S. An efficient way of doing that is via workplace H & S representatives. Workplaces with fewer than 20 workers are not required to have these representatives, which cuts across the requirement in the Act, in a practical sense. In this regard we support the view expressed on this issue by E tū.

Training of worker representatives

We agree with the BLHSF that the training sections of the Regulations need considerable redrafting, for workability.

At issue is that the worker representatives have sole responsibility for selecting training courses for worker representatives, with there being no guarantee in a particular workplace that said person has the knowledge to be able to select a training course.

¹ MinEx is the national Health & Safety Council for the New Zealand quarry, coal and minerals industry. Its main purpose is to help industry to improve its health and safety performance, and to provide centralised industry representation on matters relating to health and safety.

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THE NATIONAL HEALTH & SAFETY COUNCIL FOR THE
NEW ZEALAND MINING AND QUARRY SECTOR

There is a need for training courses to be workplace relevant. Not all of them will be.

The training courses should be decided in consultation with the PCBU, its H & S committee and its representatives.

To be clear, to be effective, training needs to be targeted at the needs of the workplace, and there will obviously be a difference between a retail outlet employing 25 staff and an underground coal mine.

The formula for determining the number of training days to be allocated to each workplace needs to account for the level of risk in each workplace. If there are fewer workers and higher risk, e.g., a small quarry, versus a retail outlet, then the quarry may need to allocate more training days to worker representatives. For example, a quarry worker representative would probably need to understand risk assessment in far greater detail, than their counterpart in a furniture shop.

Unit standards

We strongly agree with the submission by the BLHSF on the definition of additional training. In the extractive industries, PCBUs would very quickly exhaust all of their options for NZQA training, leaving no options for pursuing additional targeted training.

Reimbursement of expenses

The proposed procedure to reimbursement of expenses for training costs is overly bureaucratic. Surely, this is a matter for the PCBU to resolve with the H & S committee and representatives.

High risk v. low risk workplaces

We would like clarify the intent of the Regulations as regards the definition of high-risk workplaces, for example, there is no mention of quarries in Schedule 2, while the general intent of the main text of the Regulations would be to capture quarries as high risk.

To elaborate, in this year to date the quarry sector has experienced four fatalities out of a work force of as much as 4000, or 100 deaths per 100,000 workers, which would meet the definition of a high risk industry.

We are in general agreement with the points raised under this heading by the BLHSF, in particular, the confusion over classification of risk under different pieces of relevant legislation.

The determination of work groups

At issue is that the criteria that the PCBU must have regard to are numerous and vague, without providing clarity. The wording of this part of the regulations is unclear, and we do not understand the intent. For example, what does "diversity of workers" mean in this context? For example, some workers may be taller or shorter than others, or practise different religions, and then there are the colour-blind and left-handed workers to consider.

L McCracken
CEO MinEx
30 October 2015

Health and Safety at Work (Worker Engagement, Participation and Representation) Regulations 2016



THE NATIONAL HEALTH & SAFETY COUNCIL FOR THE
NEW ZEALAND MINING AND QUARRY SECTOR

Attachment I – MinEx member companies

A B Lime
Atlas Quarries Ltd
Bellingham Quarries Ltd
Blackhead Quarries Ltd
Byfords Construction Co Ltd
Christchurch Ready Mix Concrete Ltd
Downer NZ
Fulton Hogan Ltd
Green Vision Recycling Ltd
H G Leach & Co Ltd
Higgins Aggregates Ltd
Higgins Contractors Wairarapa
Holcim (New Zealand) Ltd
Horokiwi Quarries Ltd
Huntly Quarries Ltd
Ihumatao Quarries Ltd
Industrial Processors Ltd
Inframax Construction Ltd
Isaac Construction Co Ltd
J Swap Contractors Ltd
K B Contracting & Quarries Ltd
Lake Road Quarries
Materials Processing Ltd
Maungaraki Lime Ltd
McCallum Bros Ltd
McGregor Concrete Ltd
Mike Edridge Contracting Ltd
Monovale Sand Quarry Ltd
NZ Steel
Oamaru Shingle Supplies Ltd
Origin Quarries Ltd
Palmer Resources Ltd
Perry Resources (2008) Ltd
Porritt Sand
Prenters Aggregates Ltd
Quality Roding & Services (Wairoa) Ltd
Rangitikei Aggregates Ltd
Ravensdown Fertiliser Co-op
River Run Products Ltd
Road Metals Co Ltd
Rock Products Ltd
S C & G A Levet Contracting & Silverhill Quarry
Sibelco NZ Ltd
Southern Aggregates Ltd
Southern Screenworks Ltd
Stevenson Resources Ltd
Taueru Lime Ltd
Taupo Scoria Ltd
Taylor's Contracting Co Ltd
The Roding Company Ltd
Vickers Quarries Ltd
Waiotahi Contractors Ltd
Wharehine Ltd
Winstone Aggregates
Doug Hood
Bathurst Resources
Kaipara Excavators
Milburn Lime
Inframax Construction
Stevensons
Newmont Waihi Gold
Oceana Gold
Delta Electrical
Solid Energy NZ
Kai Point Coal
Taylor Coal
Glencoal
Birchfield