

18 March 2022

Director, Legislation Policy and Information Services Division
WorkSafe Victoria

Via website: <https://engage.vic.gov.au/dangerous-goods-explosives-regulations-2022>

Dear Sir/Madam

DANGEROUS GOODS (EXPLOSIVES) REGULATIONS 2022 AND REGULATORY IMPACT STATEMENT

CMPA is the premier representative body for the Victorian earth resources industry. It represents a broad spectrum of those involved in construction material processing businesses and has a membership base consisting of over 200 quarries across the industry. Together, these members employ approximately 1500 Victorians which underpins the construction industry of almost 240,000 employees (<https://liveinmelbourne.vic.gov.au/connect/victorian-industries/transport-defence-and-construction>).

CMPA members are typically small to medium sized family and private businesses, local government and utility providers. Many are regionally based employers and service local construction, infrastructure and road maintenance needs. The extractives sector is a key pillar within the construction industry underpinning the growth and economic development of Victoria through supply of the construction materials.

In 2020/21, the sector supplied approximately 68.5 million tonnes of construction materials (based on an estimate for underreporting) to the market, at a value of approximately \$1B directly supporting Victoria's \$80B Big Build (<https://bigbuild.vic.gov.au/about>) and the estimated 1.6M new homes required by 2050 (<https://earthresources.vic.gov.au/geology-exploration/industry-investment/joint-ministerial-statement-on-extractive-resources>). Small to medium quarries account for approximately half of this production and is submitted to be a vital industry supporting the ongoing economic prosperity of Victorians.

The CMPA supports the principle of responsible, balanced legislation that is in the best interests of the State of Victoria and Australia including the protection of resources that enable extraction of resources that is cost efficient to market and to the Victorian taxpayer who is ultimately the end consumer and beneficiary of that resource.

Thank you for the opportunity to comment on the Dangerous Goods (Explosives) Regulations 2022 and the accompanying Regulatory Impact Statement (RIS).

As stated previously (30 November 2020) credit should be given to Andrew Palmer QC for the Independent Review of the Dangerous Goods Act 1985 and Regulations in simplifying complex legislation into plain English. His most important comment was on page 8 “*Unnecessarily complex or overly onerous regulation can lead to non-compliance, affect the competitiveness of industry, and drive legitimate operators from the market.*”.

Introduction

Blasting (using explosives) has been identified as one of the key activities at hard rock quarry sites in Victoria. It is an essential part of the quarrying process and must be undertaken in a way that does not endanger people or cause damage to property, equipment or the environment. Blasting is required to fragment the raw rock source material to a size that can be loaded and hauled into the crushing plant for processing.

The CMPA has published a Blast Management Plan Template in the Construction Materials Industry 2020 Issue 3 (available at <https://cmpavic.asn.au/>) with input from WorkSafe.

The purpose of this CMPA Blast Management Plan (BMP) is to ensure safe blasting operations, ensure the protection of employees and surrounding community, all infrastructure, and assets both off and on site and minimise environmental impacts. The BMP also provides specific processes and parameters to ensure the most cost effective outcomes are achieved.

The BMP provides a central reference point for all personnel associated with blasting activities on site. The BMP provides information to key stakeholders, engaging the community and addressing regulatory requirements.

Discussion Regulatory Impact Statement

It is understood that due to the review of the Dangerous Goods Act (1985) still being underway the proposed Dangerous Goods (Explosives) Regulations (2022) amendments consist of “*formatting updates and modernisation of language*” with some specific amendments. For this reason, the Regulatory Impact Statement (RIS), the only option (besides no Regulations) considered is status quo to prevent multiple material changes to the regulatory framework.

Reference to previous RIS (2011): reference is made throughout the RIS (2022) to the RIS (2011). This is inappropriate considering that the data from the original surveys (2011) was used as a basis for conclusions in the current RIS (2022). There has been a missed opportunity to determine the actual impact of the Regulations on businesses.

Small business and competition impacts: the proposed regulatory changes are said to have a disproportionate impact on small businesses and may have an impact on competition. These impacts are seen as acceptable by the RIS.

Steady decline in the explosives industry (p.11): this statement is erroneous. It is based on the decline by 33% in explosives licences which may actually be due to the more onerous regulations being introduced in 2011. The production statistics for hard rock in Victoria increased 26% from 2010/11 to 2020/21 (<https://earthresources.vic.gov.au/legislation-and-regulations/regulator-performance-reporting/annual-statistical-reports>).

Submission

There has been an 26% increase in production of hard rock in Victoria over the last 10 years with injury from explosives *“still considered infrequent in comparison to other instances of workplace industry”*.

- There should be no further increase in regulatory burden for the Dangerous Goods (Explosives) Regulations from the review of the Dangerous Goods Act (1985).
- The 60% decrease in Licences issued to use blasting explosives needs to be investigated.
- The re-use of data taken from 2011 surveys is poor practice.
- The future RIS for any subsequent changes to the Dangerous Goods (Explosives) Regulations brought about by the review of the Dangerous Goods Act (1985) should incorporate recent surveys, recent technological changes, up-to-date costs etc.

I would be happy to discuss our submission further at your invitation.

Yours sincerely



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