

# Ontario Mining Health And Safety Review Update Released



The Ontario Ministry of Labour recently released a progress report on the ongoing Mining Health, Safety and Prevention Review, which provides several safety recommendations that mining industry employers must be aware of.<sup>1</sup>

This progress report also updates the activities of the working groups and advisory groups involved in the review. The final report is expected to be completed early in 2015, although some of the progress report's recommendations have already been implemented.

## **Background**

The review will provide Ontario's Chief Prevention Officer (CPO), who is conducting the review, with expert advice and strategic input from an advisory group of industry, labour, and health and safety representatives.

The review process will include:

- Assessment of current and emerging occupational health and safety issues in the mining sector;
- Report on the state of health and safety in Ontario mines;
- Review of past recommendations from public enquiries into mining health and safety and from coroners' inquests into mining fatalities;
- Recommendations to enhance and improve mining health and safety.

As part of the review, the Ministry of Labour held public consultations across Ontario and accepted written submissions between March and June 2014. Consultation feedback is being considered by the CPO, the advisory group and the working groups during the review.

## **Early deliverables highlighted in the progress report**

There are several notable areas of focus in the review that Ontario mining employers can self-evaluate and monitor as the review continues.

### ***Clothing Visibility***

The progress report recommends that improved high-visibility clothing be used more

extensively in mining operations. To that end, the Ministry of Labour released on September 5 a guideline on “High Visibility Safety Apparel for Mines and Mining Plants.”<sup>2</sup> The guideline provides detailed instructions on best practices for high-visibility safety apparel in both underground and above ground mines. In light of this, it is important for mining sector employers to review the guideline and ensure their policies and practices are consistent with the guideline.

Section 12(3) of the *Occupational Health and Safety Act’s* (OHS) mining regulations already requires that employers mandate their employees to wear any personal protective equipment that is necessary to protect against any hazard the employee will be exposed to.<sup>3</sup> The regulation also includes specific requirements on using retro-reflective materials in both underground and surface mining.<sup>4</sup>

Ontario Minister of Labour Kevin Flynn has indicated that, “Mine inspectors will now refer to [the guideline] in determining if a workplace is taking all necessary precautions for the safety of workers.”<sup>5</sup> Failure to comply with the guideline will likely inform the parameters of “reasonable precautions” and “due diligence” under the OHS. In addition, the progress report has indicated that stronger visibility requirements could be added to the regulations in the near future – making them even more clearly a part of OHS statutory requirements.<sup>6</sup>

### ***Disease Prevention***

The progress report addresses exposure to carcinogenic agents and illness resulting from exposure to such agents and other hazardous substances. The report proposes to create an “Ontario Mining Exposure Database” to track exposure and illnesses and determine safe levels of exposure to different hazards.<sup>7</sup> Employers should monitor this work to assess and re-evaluate their own exposure limits to ensure consistency with any new requirements.

### ***Vibration Research***

The progress report has also proposed a study to determine what protective equipment would be effective in reducing “foot-transmitted vibrations for operators of underground mining equipment.”<sup>8</sup> Employers would again be well advised to keep up to date on this research and act on any conclusions arising from the study to ensure they meet their health and safety obligations.

### ***Joint Health and Safety Committee Training***

In May of 2014 the Ministry of Labour released updated guidelines on the Joint Health and Safety Committee (JHSC) Training Program and Provider Guidelines.<sup>9</sup> This training is already required for certified members of a JHSC under section 9 of the OHS. The updated training guidelines include sector-specific training that will focus on at least six hazards specific to each sector. Under the new guidelines, training must be conducted by approved instructors.<sup>10</sup>

The May 2014 guidelines are expected to come into effect late in 2015. Employers are expected to use the intervening time to update their training programs to ensure compliance with the new guidelines. No providers are currently approved under the 2014 guidelines.<sup>11</sup> Certification is expected to begin in early 2015, and employers may apply to be approved themselves as service providers.<sup>12</sup>

In light of this development, mining employers should review their training programs and ensure they comply with the updated guidelines. Failure to do so could result in penalties under the OHS when the 2014 guidelines come into effect.

## **Conclusion**

The Mining Health, Safety and Prevention Review has already resulted in regulatory changes in Ontario. Employers should take note of these developments and update their policies and practices accordingly.

The final report will be released early in 2015 with additional recommendations. In the interim, other regulatory changes may be forthcoming. In addition, the scope of the review, which is currently limited to underground mining, could be expanded to include surface mining.

We will monitor these developments and update you in future bulletins. In the meantime, we would be pleased to assist you in answering any questions you may have about the impact of these changes and potential changes on your mining operations, policies and practices.

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