



# New legislation & Major Hazard Management



Fig. 404 Explosion damage underground - Appin Colliery





Since 1980, how many lives  
have been lost in NSW coal  
Mines?

108

Since 1900

More than 1500





# Philosophy of NSW legislation



- ✓ The OH&S Act 1983 introduced the concept of 'a duty of care' to NSW safety legislation, to go beyond simple compliance



- ✓ In 1999 the NSW Attorney General, Jeff Shaw, noted that the NSW government would amend the Act so that "OHS management systems and risk management are key instruments in meeting general safety requirements".



- ✓ The 1999 NSW regulations commenced this process and the 2002 Act & associated regulations will help to entrench it.





# Risk Management

Risk Management is the culture, processes and structures that are directed towards the effective management of potential opportunities and adverse effects  
(AS 4360:1999)

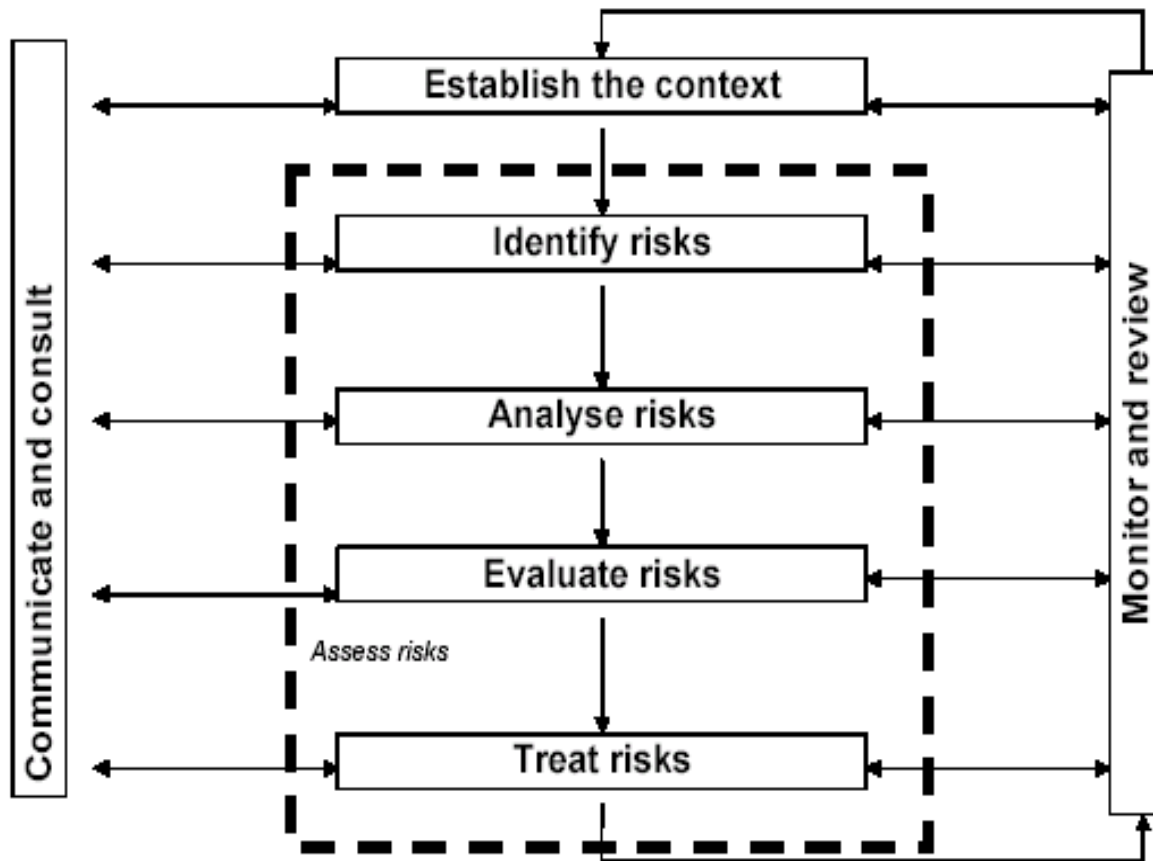






# The Risk Management Process

Risk Management Process Model  
(AS/NZ 4360)





# What is Legislation?

- ✓ 'The creation and promulgation of a general rule of conduct without reference to particular cases' eg an Act of Parliament
- ✓ Delegated legislation may be authorised by an Act eg Regulations, rules, by-laws, statutory instruments





# Legislation

## ✓ Acts

- ✓ employers' "General Duty of Care",
- ✓ general administrative matters
- ✓ workplace consultation mechanisms
- ✓ enforcement and inspectorial matters
- ✓ exemptions, and
- ✓ penalties





# Subordinate Legislation

## Regulations

- ✓ Used to define
  - ✓ administrative standards
  - ✓ hazard control specific standards
  - ✓ exposure standards
  - ✓ process or risk management standards







## Supportive devices

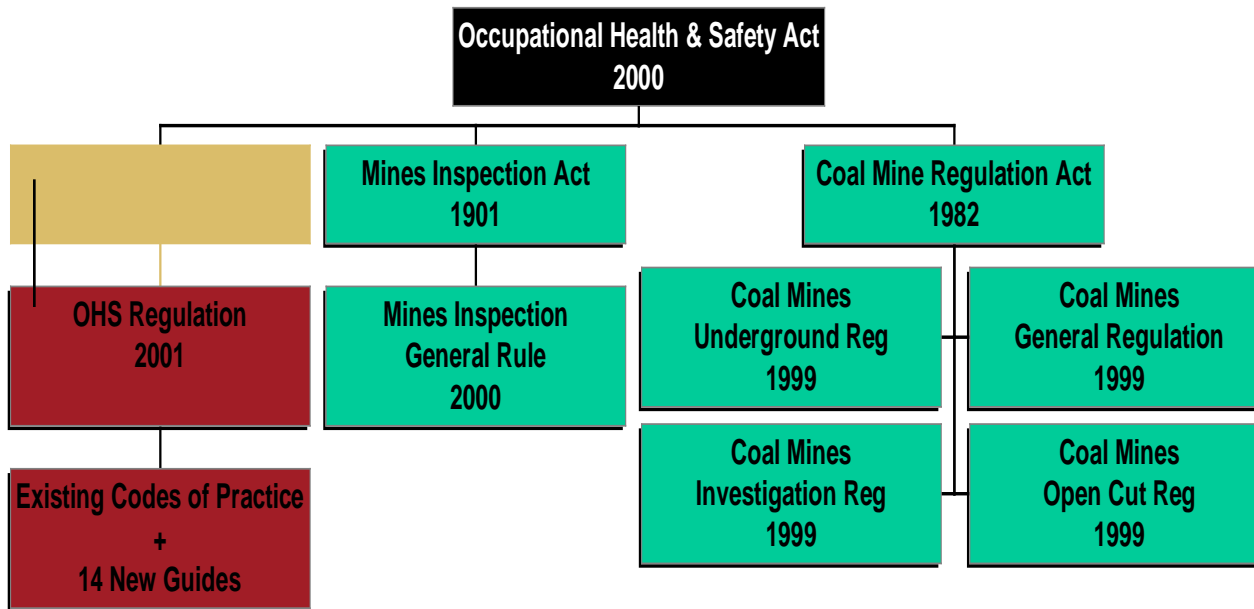
- ✓ Codes of Practice, Guidelines and Guidance Notes
  - ✓ additional information on methods of complying with requirements of the principal Act or subordinate legislation
  - ✓ where approved they have 'deemed to comply' or evidentiary legislative status





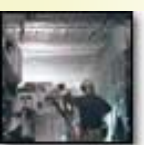
# NSW Mining Legislation

## The OHS Legislative Framework



All other workplaces

Mines





## Some recent changes



- ✓ Mining Legislation Amendment (Health and Safety) Act 2002  
Inserted Sec 47A of OHS Act to allow minister to appoint inspectors under OHS Act wrto mines. Accented 12 May 04, can now be implemented. Training of inspectors has been completed. Awaiting appointment & authority cards



- ✓ OHS Amendment (Mines) Regulation 2004 applies general hazard provisions from the OHS Reg to coal mines. Risk management, consultation, asbestos, noise management, atmosphere, confined spaces, manual handling, hazardous substances, proposed work notifications



- ✓ Dangerous goods act to become part of OHS Reg and Explosives act to come into force.





# Inspectors appointed under sec 47A of OH&S Act



✓ Departmental officers soon to be appointed under OH&S Act in relation to mines



✓ Powers of entry, search and inquiry to come from Parts 5 & 6 of OH&S Act

✓ Differentiation of powers between Inspectors, Engineering Inspectors and MSOs to be maintained



✓ Notices will generally be issued to a company (employer) but may be to an individual

✓ Will enable issues involving the OH&S Act at a mine to be reviewed by an inspector eg matters relating to consultation



✓ In general, there should appear to be nothing different from the current operations of DPI Mine Safety



# OH&S Amendment (Mines) Regulation 2004

✓ Since 1 Nov 04 the following sections of the OH&S Regulation apply to coal mines



- ✓ Chapter 2 Risk Management, clauses 9, 10, 11, 12 & 16
- ✓ Chapter 3 Consultation (has applied since September 02)
- ✓ Asbestos related provisions in Chapters 4, 8, 10, 11 & 12
- ✓ Noise management provisions of Chapter 4
- ✓ Atmosphere standards in clauses 50 & 51 except where mining legislation provides more stringent standards
- ✓ Confined spaces requirements of Chapter 4 apply to surface of coal mines
- ✓ Manual handling provisions of Chapter 4
- ✓ Hazardous substances provisions of Chapter 6
- ✓ Chapter 12 provisions for notifiable work relating to carcinogenic substances and asbestos





# Future coal legislation



Occupational  
Health &  
Safety Act

Occupational  
Health &  
Safety  
Regulation

2001

Coal Mine  
Health & Safety  
Act 2002




Coal Mines  
Health & Safety  
Regulation

2004





# CMH&S Act - Relation to OHS Act

- ✓  Supplementary to OHS Act 2000
  - ✓ not 'associated' legislation
- ✓  Supplements duties of parties
  - ✓ Employers
  - ✓ Managers
  - ✓ Contractors/self employed
  - ✓ Employees
- ✓  Both Acts & regulations will apply



# Major hazard management under the CMH&S Act 2002



## What is a hazard?

- ✓ In its simplest it's 'a source of harm'.
- ✓ A source of harm or situation with the potential to cause loss (AS 4360)
- ✓ A source or a situation with a potential for harm in terms of human injury or ill health, damage to property, damage to the environment or a combination of all these (AS 4804)
- ✓ However detailed your definition 'Hazard Identification' is a critical step in the management of major hazards at your organisation







# Hazard Identification under the Coal Mines Health & Safety Act



- ✓ Section 32 allows for prescription of major hazards by regulation
- ✓ Section 33 allows the minister to require operators to identify major hazards affecting their operation
- ✓ Section 34 allows the minister to declare that a coal operation (s) is subject to a major hazard



# Major Hazard Management Plans CMH&S Act

- ✓  Section 35 requires that for each major hazard identified or applied through 32, 33 or 34 the mine operator shall prepare a separate management plan under the safety management system for the coal operation
- ✓  Section 36 sets a goal for these plans, ie how will people be protected from the hazard, and allows for matters to be prescribed





# Major Hazards



✓ These result in the higher consequence risks arising from mining



✓ In the 'white paper' the following were listed

- ✓ for O/C; heavy equipment safety, slope stability & explosives



- ✓ for U/G; strata failure, inrush, fire & explosion, transport & haulage safety, & dust diseases



✓ Other activities may fall under the 'High Risk' activities requiring notification under section 53 of the Act.





# Management Plans



✓ The act requires an operator to develop a Health & Safety Management System. Within this are to be made any Major Hazard Management Plans for the operation



✓ Relevant standards, such as AS 4801, for the development of safety management systems require a system to have allocated resources with identified responsibilities, trained competent people who have been consulted, controlled documentation and relevant reporting, auditing and incident investigation, record keeping & management review





# Management Plans (continued)

- ✓ Relevant codes of practice, guidelines and standards should be addressed in the development of plans along with any matters prescribed by regulation. Critical Controls.
- ✓ Outburst management within the Bulli seam has been a successful example of this process.
- ✓ Successful management of a hazard incorporates the concept of continuous improvement within the total systematic approach. This has not been a concept inherent in traditional regulation.





# Conclusions



- ✓ Risk Management is the culture, processes and structures that are directed to the effective management of potential opportunities and adverse effects (AS 4360)
- ✓ Major hazard management plans as part of a meaningful safety management system help provide the processes and structures. You and your actions provide the culture.





## Questions



**Bob Myatt, Metropolitan Colliery** – Why has the process taken so long?

**David** – The Act went through in 2002. The last state election caused a hiccup, changes in parliamentary draftsmen caused more delays as well as other problems. Mining Resources does not write the regulations. The Parliamentary Draftsman writes what he thinks other parties mean. The move to Maitland has also delayed matters. The coal industry section is only part of the Act. It is hoped that the Act will be finalized by March 2005.



**Ken Cram** – The 1992 Act came out in 1994.

**David** - The aim is to simplify the Regulations as much as possible by incorporating the OHS Act.



**Alan Fisher** – Delays often come about due to conservatives who want to hold onto their privileges and power.

**David** – Developing regulations for the coal industry is a difficult process as we have to deal with strong minded groups of people such as the unions, mine managers, government, etc. It is a very complicated process. It is the Government's legislation and they are ultimately responsible. The final decision is with the minister.

