Summary of responses - HSE's consultation on the amendments to Mines Regulations 2014 (MR2014).

Background

The consultation relates to proposed amendments to the Mines Regulations 2014 (MR2014) to apply a new binding limit for respirable crystalline silica (RCS) of 0.1mg/m^3 below ground in coal mines.

MR2014 impose duties on mine operators to protect persons at work from the risks to their health arising from exposure to inhalable and respirable dust and respirable crystalline silica (RCS) below ground in coal mines. Directive (EU) 2017/2398 amends the Carcinogens and Mutagens Directive (2004/37/EC) (CMD) and sets down new occupational exposure limit values (OELVs) for a number of recently categorised carcinogens and mutagens. Importantly, it includes a new binding limit for exposure to RCS of 0.1mg/m^3. OELVs are implemented into GB law by the Control of Substances Hazardous to Health Regulations 2002 (COSHH), in particular, the approved workplace exposure limits (WELs) set down in the EH40/2005 publication.

The Consultation Letter, Questionnaire, Impact Assessment and draft proposal for changes to MR2014 were sent to all relevant mine operators, trade unions and trade associations (43 in total including eight producing coal mines). The Consultation Letter and Questionnaire were also published on HSE's website. We received 11 responses to the consultation (two from operational coal mines). The overall response conclusion was positive with no objections to the proposal and no significant additional costs identified. Of the two coal mines who are in production who responded, both recorded RCS levels below the new limit.

Summary of responses

HSE received 11 responses and all comments have been considered in this analysis. All respondents replied by completing the questionnaire.

Who contributed to the public consultation?

- Industry – 4 respondents:
    - 2 operational coal mines below ground;
    - 2 coal mine development companies;
- Others – 7 respondents:
    - an awards and skills standard setting body;
    - a mines rescue organisation;
    - a trade association;
    - three public bodies;
    - one professional association;

Responses to the questions

HSE asked consultees to consider a number of questions on the proposed amendments to MR2014 and to support their answer with some further explanation. Not all respondents answered every question. Similarly, not all gave comments to support their answer.

Our analysis includes all 11 responses. We have also considered every respondent's comments or views.

Numerical analysis of the returned public consultation questionnaires

Q1**.** What is the current/average RCS level being recorded below ground at the mine?

Summary

Of the two operating coal mines below ground who responded, one recorded an average RCS level of 0.01mg/m^3 and the other recorded an average level of 0.02mg/m^3. Both considerably lower than the 0.1mg/m^3 being proposed.

Eight further responses were unable to provide an average RCS level for various reasons; not a coal mine operator, not yet in production or being a trade association/public body.

One response from a coal mine operator due to begin operating in 2020 provided historical data on RCS levels from various sources.

HSE response

The proposed amendments to MR2014 will apply a new binding limit for respirable crystalline silica (RCS) of 0.1mg/m^3 below ground in coal mines.

Q2. Will the operator have to do anything different to comply with the new 0.1 mg/m^3 level? Yes/No

Summary

Of those who responded to this question, two responders did not expect to have to do anything additional to comply with the new level.

A further two suggested that additional assessment on the operation of mining machinery may be needed to ensure the new limit is met and one coal mine operator stated they are currently trialling a foam spray within cutting machines and transfer points to reduce RCS levels.

HSE response

We welcome the support for this change which will enhance the health of those working below ground in coal mines and the steps industry have already identified for further assessment of the use of mining machinery.

Q3. Will there need to be a change in working practices to comply with the new RCS limit/level? Yes/No

Summary

Two operating coal mines stated no change in working practice would be needed and a further coal mining developer (not yet in production) was unable to comment.

Two other responses (a professional body and a company with planned construction of an underground coal mine) indicated that some additional action may be required. These related to exposure monitoring (which is already required by COSHH) and exposure controls, though the information was speculative and no specific cost estimates were provided.

HSE response

We acknowledge the comments that working practices may need to be reassessed especially during the use of mining machinery. The mine operator will need to have in place suitable and effective arrangements for the detection and mitigation of exposure to RCS below ground in coal mines as in all other UK workplaces. The supporting guidance will provide information for the mine operator about the level of provision of new arrangements for detection and mitigation that would be appropriate, and HSE's mines inspectors will examine these arrangements as part of their regulatory interventions.

Q4. Can you estimate the cost (if any) of complying with the new RCS limit/level e.g. time spent per annum and money spent per annum? Please be as detailed as you can

Summary

No costs were identified during this consultation.

HSE response

We do not expect significant additional costs to businesses operating underground mines. Evidence gathered, including the public consultation, indicates that these businesses are already operating within the new limit and should not need to take additional control measures.

Familiarisation costs should be minimal. The WEL system is already well established in Great Britain and businesses should not need to spend time

determining further measures to control exposures, as they are already compliant.

Q5. 5. How many people work at the mine?

Summary

Of the two operation coal mines who responded there are approximately 100 people working below ground.

HSE response

There are 10 known coal mines affected by the implementation of the EU OELV for RCS of 0.1mg/m3 (1 medium and 9 micro business) with approximately 114 employees in total.

A further 560 people are expected to be working below ground in coal mines following successful operation of two new developments.

HSE's consultation on the amendments to Mines Regulations 2014 (MR2014).

Following analysis of the responses received, no changes were required as a result of the consultation exercise to the proposed amendments and the Impact Assessment. Based upon views expressed at pre-consultation meetings and these public consultation responses the proposal for amendments to MR2014 to apply a new binding limit for respirable crystalline silica (RCS) of 0.1mg/m^3 below ground in coal is supported by the majority of stakeholders.