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Legal Officer: G Ndamse

Date: 20 April 2020

**RE: START- UP PROCEDURE OF MINES BY EMPLOYERS AND EMPLOYEES
FOLLOWING THE NATIONAL LOCKDOWN**

1. BACKGROUND

The Department of Mineral Resources and Energy (DMRE) has previously requested all the mines to develop and implement a risk based protocol during the lockdown period in support of the President of the Republic, HE Cyril Ramaphosa, announcement regarding the prevention of the spread of COVID-19. The Department also issued a Guiding Principles on the Prevention and Management of COVID-19 with regards to the preparedness, mitigation and management of COVID-19 to assist the sector in developing the aforesaid protocol.

Also, the amended regulations were recently issued in terms of section 27(2) of the Disaster Management Act, 2002.

Further, the historic statistics have always shown that the prolonged stoppage of working places at a mine may result in the deterioration of health and safety measures. This often results in the accumulation of significant hazards thereby increasing the risks of mine employees being seriously injured. Some of these hazards are deteriorated support and poor roof conditions, seismic events, lack of ventilation, fires, blocked ore pass systems, mud rushes.

Section 5(1) of the Mine Health and Safety Act requires that every employer, as far as reasonably practicable, must provide and maintain a working an environment that is safe and without risk to health of employees.

Attached please find a copy of letter that must be sent to all the mines in your region.

A handwritten signature in black ink, appearing to read 'D Msiza', is written over a light blue horizontal line.

**D MSIZA
CHIEF INSPECTOR OF MINES
PRETORIA**



Department of Mineral Resources and Energy

Enquiries: Name of PI
Ref no: Covid - 19

All Employers

**RE: START- UP PROCEDURE OF MINES BY EMPLOYERS AND EMPLOYEES
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2. BACKGROUND

The Department of Mineral Resources and Energy (DMRE) has previously requested all the mines to develop and implement a risk based protocol during the lockdown period in support of the President of the Republic, HE Cyril Ramaphosa, announcement regarding the prevention of the spread of COVID–19. The Department also issued a Guiding Principles on the Prevention and Management of COVID-19 with regards to the preparedness, mitigation and management of COVID-19 to assist the sector in developing the aforesaid protocol.

In support of the President's decisive actions on the nation-wide lockdown, the Minister of Mineral Resources and Energy, Mr Gwede Mantashe (MP), also met key stakeholders from the sector to consolidate plans to deal with the spread of COVID-19.

Further, the historic statistics have always shown that the prolonged stoppage of working places at a mine may result in the deterioration of health and safety measures. This often results in the accumulation of significant hazards thereby increasing the risks of mine

employees being seriously injured. Some of these hazards are deteriorated support and poor roof conditions, seismic events, lack of ventilation, fires, blocked ore pass systems, mud rushes.

The risk to employees is also attributed to a variety of issues, including but not limited to lack of compliance to the legal provisions; poor medical surveillance; inadequate supervision; anxiety; production pressures and associated incentives; lack focus and complacency.

Fall-of-ground (FOG) accidents still remain the largest accident category and the predominant cause of fatalities followed by transportation and mining (TM) accidents. It is with regret that by the 14 April 2020, there has been 16 fatalities which occurred in the sector compared to 9 during the same 2019. This corresponds to an increase of 78% in fatal accidents compared to 2019. It is important that we arrest this sudden increase to make sure we reduced our fatalities as per the sector milestones. The main contributors to fatalities are FOG and TM accidents.

3. LEGAL PROVISIONS

Section 5(1) of the Mine Health and Safety Act (Act No. 29 of 1996) as amended requires that every employer, as far as reasonably practicable, must provide and maintain a working environment that is safe and without risk to health of employees.

Also, the amended regulations were recently issued in terms of section 27(2) of the Disaster Management Act, 2002 (copy attached). The following provisions are also part of the amended regulations:

Energy and petroleum products supply

11J. To ensure the continuous supply of energy and petroleum products to the society as referred to in paragraph 6 of Part B of Annexure B—

- (a) collieries that supply Eskom shall continue to operate at full capacity; and
- (b) refineries shall operate at full capacity to avoid shortage of fuel, and such operations shall include refineries, smelters, plants and furnaces.

Mining Operations

11K. (1) Mining operations, as referred to in paragraph 22 of Part B of Annexure B, shall be conducted at a reduced capacity of 50% during the period of lockdown, and thereafter at increasing capacity as determined by direction by the Cabinet member responsible for mineral resources and energy.

(2) The following conditions apply to the starting and increasing of capacity:

- (a) A rigorous screening and testing program must be implemented as employees return to work;
- (b) the mining industry must provide quarantine facilities for employees who have tested positive for the COVID-19;
- (c) data collected during the screening and testing programme must be submitted to the relevant authority;
- (d) mining companies must make arrangements to transport their South African employees from their homes to their respective areas of operations;
- (e) in accordance with these Regulations and other regulations applicable in neighbouring Southern African Development Community countries, workers from these neighbouring countries will be recalled at the end of lockdown in their respective countries.

(3) The monitoring and impact assessment of seismicity through the Council for Geoscience must be intensified with immediate effect.

The Minister of Health, Dr Zweli Mkhize (MP), has recently during a presentation on SA's Covid-19 epidemic: Trends & Next steps, also announced the next stages of South Africa's response, which are but not limited to the following:

Stage 5: Hotspots

- Surveillance to identify & intervene in hotspots.
- Spatial monitoring of new cases.
- Outbreak investigation & intervention teams.

Stage 6: Medical Care (for the peak)

- Surveillance on case load & capacity.
- Managing staff exposures and infections.

Stage 8: Ongoing surveillance

- Ongoing surveillance for new cases

4. ACTION REQUIRED FROM THE MINES

All employers are instructed to ensure that prior to allowing any mine or shaft to commence with their production activities after a prolonged stoppage; a safe precautionary start-up procedure is developed in consultation with organised labour at the mine.

The precautionary start-up procedure must address the measures that the employer is to take to prevent the spread of COVID – 19 as well as actions to provide and maintain a working environment that is safe and without risk to the health or safety of employees.

It is of great importance that the procedure is also compiled in line with the amended regulations issued in terms of section 27(2) of the Disaster Management Act, 2002. It is further advised that the World Health Organisation (WHO), National Department of Health (NDoH) and National Institute for Communicable Diseases (NICD) guidelines as well as the risk-based approach as embedded in the Guiding Principles of Prevention and Management of COVID-19 in SAMI, be applied in the development of the start-up procedure.

The Department further encourages the mines to ensure that a risk-based approach, in terms of the MHSA, should be adopted in developing the procedure. In this regard, it is hereby also advised that there should be a systematic phasing in of employees to ensure that the NDoH guidelines are adhered to on the prevention of the spread of COVID-19.

A copy of the precautionary start-up procedure must be forwarded to the Principal Inspector of Mines.

This instruction is effective immediately from the date of this letter and shall remain in force until varied or set aside by the Principal Inspector of Mines.

The Department will also be conducting inspections to ensure that appropriate measures are implemented to protect the health and safety of mineworkers.

Yours faithfully

PRINCIPAL INSPECTOR OF MINES

REGION

DATE: