



## Mines Safety Bulletin No. 90

**Date:** 21 December 2009

**Subject:** Total fire bans and implications for mining operations

### Bush fires legislation

Resources Safety has received several enquiries regarding total fire bans and the implications for mining operations. The relevant legislation, available from the State Law Publisher ([www.slp.wa.gov.au](http://www.slp.wa.gov.au)), is:

- *Bush Fires Act 1954* (the Act); and
- Bush Fires Regulations 1954 (the regulations)

*Note: The legislation was amended in December 2009 to allow the Minister to declare a "total fire ban".*

The parts of the legislation that may apply to the mining industry include, but are not limited to:

- sections 22B(2) and 22B(3) of the Act, referring to fires in the open air and certain activities being prohibited during a total fire ban; and
- regulation 24A(2), covering activities prohibited in the open air during a total fire ban.

For the purposes of section 22B(3)(c) of the Act, regulation 24A(2) prescribes the use or operation of any engine, vehicle, plant, equipment or machinery on land on which there is bush or which is under crop or pasture or stubble.

### Practical application to mining operations

The following and similar activities may be affected by a total fire ban:

- clearing of bush as part of pre-stripping operations;
- exploration drilling operations; and
- repairs to equipment in vegetated areas involving "hot work".

### Applying for an exemption

An exemption can be applied for under section 22C of the Act.

The information below from the Fire and Emergency Services Authority of WA (FESA) is provided for your information and action as required.

*The Bush Fires Act 1954 was amended on 1 December 2009 to enable the declaration of a total fire ban in any area of the State when existing or impending weather conditions are conducive to the outbreak of bush fires. This replaced the existing power to declare a bush fire emergency period, and is in addition to the existing restrictions on lighting fires in the open air during restricted and prohibited burning times. During a total fire ban, it is an offence to light, maintain or use a fire in the open air or carry out an activity in the open air that causes or is likely to cause, a fire. Pursuant to this, outside activities such as welding, grinding, gas flaring, the operations of brick kilns and the like are prohibited unless an exemption has been granted.*

To apply for an exemption it is necessary to make written application to the FESA Regional Office nearest to your operation or, for companies with operations at various locations throughout the State, to the Rural Operation Officer, FESA Regional Office, 91 Leake St, Belmont WA 6104.

The application should provide the following information.

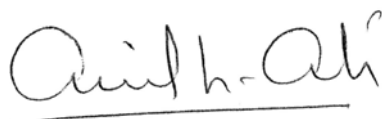
- The name of the applicant and, for an application by a company, the person applying on its behalf.
- The location of the site where the use of fire or activity is proposed to occur.
- The nature of the activity undertaken at the site where the use of fire or activity is proposed to occur and the purpose that requires the use of fire or the carrying out of the activity at the time and place for which the exemption is sought.
- The likely impact should the exemption not be approved.
- The precautions that will be in place:
  - for the use of fire, to ensure any fire can be contained and if necessary extinguished
  - for an activity, to limit the risk of a fire starting and, if necessary, to contain and extinguish any fire that does start.
- The period for which the exemption is sought.

### **Ensuring the best outcome**

With summer weather now upon us, it is recommended that all mining operations, including exploration, review their fire and emergency preparedness systems and equipment to satisfy themselves that all is fully operational.

All employees should be reminded of the need to fully comply with the requirements of a total fire ban. Significant penalties may apply if non-compliance can be proved.

Employers and employees are reminded of their duties under sections 9 and 10, respectively, of the *Mines Safety and Inspection Act 1994*. Employers need to be satisfied that their employees are not, as far as practicable, exposed to hazards posed by bush fire or associated bush fire fighting activities. Employees need to cooperate with their employer in the identification, reporting and control of bush fires.



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