

## 1. TOPICAL ISSUES FOR THE QUARTER.

### 1.1 Codes of Practice

Inspectors are often asked when codes of practice are required. This section is an attempt to bring some clarity to the matter.

In terms of Section 11(1) of the Mine Health and Safety Act, Act 29 of 1996 every employer must do a Hazard Identification and Risk Assessment. The Employer must further record the significant hazards in terms of Section 11(1)(c).

An employer will display due diligence if he considers the list of available guidelines for codes of practice and use those that applies to address the significant risks he identified. It would however be ludicrous to have a Code of Practice for Mine Residue if you do not have mine residue on your mine and therefore no significant risk. Or, to have a Code of Practice for fatigue management if it is not a significant risk on your mine. The Code of Practice for fatigue management however has valuable tools in it to assist in identifying whether in fact you do have a significant risk. *Hazard Identification and Risk Assessment is the key.*

Section 9(2) does not say anywhere that a code of practice only have to be prepared when the Chief Inspector issues you with a guideline, it would be the same as saying that you only have to comply with the Mine Health and Safety Act, Act 29 of 1996 if the minister issued you with a law book. The guidelines are available from the Department Mineral Resources Mine Health and Safety Inspectorate and the Department Mineral Resources website should you identify a significant risk on your mine.

Section 9(2) however provides that: "the employer must draft a Code of Practice if the Chief inspector requires it." This allows for situations where an inspector identifies a hazard at your mine, for which you do not have a Code of Practice, which can be addressed by an existing Guideline for a Code of Practice. In the Western Cape mines with slope stability problems were instructed to compile codes of practice for slope stability.

The employer may compile a Code of Practice on any matter in terms of Section 9(1). It would be "*reasonably practicable*" to look at the list of guidelines provided by the Department Mineral Resources to assist you with your Hazard Identification and Risk Assessment and to use the guidelines applicable to you. Section 9(3) says it must comply with the guidelines if there is a Guideline for a Code of Practice for the particular issue you identified by means of your risk assessment.