

SUMMARY OF AMENDMENTS

Amendments to the Work Health and Safety (Mines and Petroleum Sites) Regulation 2014

December 2019

A summary of the amendments to the Work Health and Safety (Mines and Petroleum Sites) Regulation 2014 is provided in the table below.

These amendments commence on 1 February 2020 and are set out in the Work Health and Safety (Mines and Petroleum Sites) Amendment Regulation 2019 published on the NSW legislation website.

Clauses in brackets indicates related amendments.

CLAUSE	AMENDMENT	REASON
3	Updated definitions of 'Wiring Rules' applying new standard AS/NZS 3000:2018 <i>Electrical installations to mines and petroleum sites</i> .	To apply the most recent standard to mines and petroleum sites, as it is in other workplaces.
39 (40, 55, Sch 12)	Imposes a workplace exposure standard of 0.1 milligram per cubic metre of air for diesel particulate matter at mines and petroleum sites. A 12-month transitional period is provided to give industry the necessary time to adapt to the new requirement.	This is considered necessary in NSW because an exposure standard has not yet been legislated either in Commonwealth or state work health and safety laws. The exposure value is recommended by the Australian Institute of Occupational Hygienists.
127	Removes reference to repealed legislation and replaces with reference to current legislation.	The <i>Mine Subsidence Compensation Act 1961</i> has been repealed and replaced by the <i>Coal Mine Subsidence Compensation Act 2017</i> .

CLAUSE	AMENDMENT	REASON
128 (179)	<p>Requires an operator to notify the regulator of the following high potential incidents:</p> <ul style="list-style-type: none"> • an uncontrolled fire on mobile plant that is in operation (whether operated directly, remotely or autonomously) • a loss of control of heavy earthmoving machinery that is operated remotely or autonomously, including any failure of braking or steering • spontaneous combustion occurring at the surface of a coal mine (including an underground coal mine). 	<p>To enable the department to better target incidences in high priority areas which may not otherwise be reported.</p> <p>A factsheet will be provided with more information.</p> <p><u>Comment:</u> Spontaneous combustion at coal mines are currently dangerous incidents. See related amendment to clause 179 applying provisions for dangerous incidents when it involves a serious risk of worker exposure.</p>
129	Remove requirement to provide the regulator at least one month notice before operations at a mine are commenced and the coordinates of exploration drill holes.	To allow a mining operation to provide notice any time before it commences.
130 (Sch 9)	Remove reference to “quarterly” and refer to work health and safety (WHS) reports only.	To allow the regulator to require WHS reports at different intervals (including annually) without requiring a quarterly breakdown.
139(2)	Clarify the regulator can only be satisfied that an applicant is eligible for a practising certificate if they hold a relevant certificate of competence (or an interstate practising certificate) or otherwise meet the criteria specified by the regulator in a notice.	To clarify the eligibility requirements of an individual to hold a practising certificate.
143 157 (Sch 13)	Make it an offence for holders of practising certificates and licences to fail to comply with conditions imposed on those practising certificates and licences.	<p>To enable a more effective mechanism for the regulator to enforce compliance with low-level breaches without suspending or cancelling a practising certificate.</p> <p><u>Comment:</u> See also amendments to Schedule 13 (Penalty Notice offences)</p>

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Amendments to the WHS (Mines and Petroleum Sites) Regulation 2014

CLAUSE	AMENDMENT	REASON
158A	New provision for the voluntary surrender of a licence by a licence holder without an offence.	To allow the regulator to cancel a licence at the request of the licence holder.
158B	Provision for the regulator to make minor amendments to a licence, including amendment to correct an obvious error, to change an address, or to make other changes that do not impose a significant burden on the licence holders.	To allow the regulator to make minor amendments to a licence where further assessment is not required, and the duration of the licence is not affected.
177(4) (Sch 12)	Changes the requirement for registration of an item of plant specified under the WHS (Mines and Petroleum Sites) Regulation to every 5 years. Schedule 12 provides a transition provision in which the amendment does not affect the expiry dates of registrations that were in existence immediately before 1 February 2020.	To remove requirement for specified items of plant to be registered annually, consistent with the national position as per clause 272 of the model WHS Regulation.
179	Creates requirement for spontaneous combustion to be notified as a dangerous incident only if there is exposure to a serious risk.	To implement new notification arrangements for spontaneous combustion incidents notified under clause 179.
Sch 3 (3) (Sch 12)	Identifies the establishment, operation, alteration or decommissioning of a tailings storage facility (TSF) as a high risk activity and specifies the information and documents to be provided in relation to that activity. New requirement applies to all mines other than: <ul style="list-style-type: none"> • coal mines, and • opal mines, and • small gemstone mines, and • mines at which the inundation or inrush of any substance would not reasonably be likely to result in an emergency situation or present a risk to the health and safety of workers and other persons. (continues over page)	To allow for early identification of issues and intervention, if required, consistent with those for emplacement areas at coal mines. A fact sheet has been prepared on the amendments for tailings and storage facilities. The transition provision is required as a consequence of amendments made to enable a smooth transition to their implementation.

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CLAUSE	AMENDMENT	REASON
	<p>Updates definition of emplacement areas (clause 3 definition) for consistency across all mines.</p> <p>Transition provisions are included in which notification as a high risk activity (clause 33):</p> <ul style="list-style-type: none">• does not apply to the continuing operation of a TSF that was in operation immediately before 1 February 2020.• may be given any time within three months of 1 February 2020 for TSFs defined as a 'transitional high risk activity'. <p>(Refer to the factsheet for more information).</p>	
Sch 10	<p>Updates requirement in relation to training requirements for persons exercising statutory road dust sampler functions at underground coal mines.</p>	<p>To enable persons other than the department to be authorised to conduct training of a course approved by the regulator.</p>
Sch 13	<p>Update the provisions for which a penalty notice can be issued.</p>	<p>To provide a more effective mechanism for the regulator to enforce compliance with low-level breaches without the need to commence proceedings in court.</p>

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