

## Draft Work Health and Safety (Mines) Regulation

Public comment template

Please send submissions by email to [consult.minesafety@trade.nsw.gov.au](mailto:consult.minesafety@trade.nsw.gov.au) Submissions must be received by **27 June 2014**.

**Confidentiality:** Any information that you do not wish to be made available to the public should be clearly marked 'IN CONFIDENCE'. Submissions are subject to all relevant laws such as the [Government Information \(Public Access\) Act 2009](#) and the [Privacy and Personal Information Protection Act 1998](#). NSW Trade & Investment may provide extracts of submissions to other stakeholders for comment during the review of public submissions.

Please indicate here by a tick  if this submission or any parts of it are provided in confidence.

Whole submission       Address and contact details       Part (please specify) .....

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**Organisation (if applicable): Citizen**

This template is divided into two parts:

1. Comments in response to discussion paper
2. Comments in relation to draft regulation

Please ensure you include the page, section number or regulation clause number to which your comment relates. Your submission should, wherever possible, include evidence and examples to justify your position.

### Part 1 - Comments in response to discussion paper

Page or Section No.	Discussion point and your comment
	Nil return.



Part 2 - Comments in relation to draft regulation	
Clause number	Title of clause and your comment or suggestion
5(i)	The inclusion of mine subsidence in a safety statute is curious. There is probably a sustainable argument for most, if not all, subsidence not being in the class of things having “a reasonable potential to result in multiple deaths”. How is it distinguished from ground or strata failure with a fairly obvious reasonable potential risk ? The provision may end up without any practical effect.
9(2)	The concern here is that “conducted by a competent person” may be read narrowly to include conducted by an individual. This is made worse by the wording in cl 9(5)(a). One of the great strengths of the risk assessment discipline is its team based nature resulting in an appropriate cross section of expertise being available and greater potential for discovery of low probability but potentially catastrophic outcomes than, arguably, is the case with the ponderings of one person. With the present wording the emergence of the smart arse who wants to go it alone seems inevitable.  Suggest change the role to oversight or supervision by a competent person.
9(5)(a)	An appropriate team composition is a key indicator in evaluating the likely quality of a risk assessment. Therefore, suggest record should include: identity of competent person overseeing (or supervising) the assessment, AND, names and relevant competencies of all persons involved in the assessment.
9(5)(b)	Not just control measures <u>implemented</u> may be of interest. Of at least equal importance may be those identified but NOT implemented. Suggest the record should include: those control measures <u>identified</u> and those control measures NOT implemented (with reasons).
99(1)	Firstly, the wording here seems to leave open an argument that there is no risk of an irrespirable atmosphere and so a self-rescuer is not required to be supplied. Secondly, is there a valid argument to support constraining the self-rescuer to a self-contained type ? The current coal

