



Department
of Industry
Resources Regulator

NSW Resources Regulator

Monthly business activity
report: January 2017



The NSW Resources Regulator, established on 1 July 2016, is responsible for the compliance and enforcement functions across the mining and resources sectors, and for driving continuous improvement in all of the regulatory functions of the NSW Department of Industry.

This includes working with industry, community, local councils and other state government agencies to provide a consistent and responsive regulatory approach to ensure compliance with the legislation. This legislation includes the *Mining Act 1992* (Mining Act), *Work Health and Safety Act 2011* (WHS Act) and the *Work Health and Safety (Mines and Petroleum Sites) Act 2013* (WHS (M&PS) Act), and other relevant legislation and associated regulations.

On 30 January 2017 the Hon. Don Harwin MLC was appointed as the Minister for Resources and Minister for Energy and Utilities and became the responsible minister for the following pieces of legislation administered by the NSW Resources Regulator:

- *Mining Act 1992*
- *Work Health and Safety (Mines and Petroleum Sites) Act 2013*

This report provides a summary of the activities of the NSW Resources Regulator for the month of January 2017.



The Department of Industry, Skills and Regional Development (the department) has taken all care to ensure the accuracy, completeness and reliability of the information provided in this report. Nothing in this report impacts any duties held by any person under legislation administered or enforced by the department. Compliance with the legislation is a legal requirement. Some persons may have a right of internal or external review of decisions made under the legislation administered or enforced by the department.

During January Mine Safety undertook important regulatory intervention activities at the Metropolitan Colliery following a second gas outburst incident in a matter of weeks. The most recent gas outburst on the longwall face resulted in the release of carbon dioxide and a significant amount of coal, which obstructed passage across the face. A prohibition notice and scene preservation notice were issued which prevented further production from the longwall.

The incident followed a low-energy gas outburst on the longwall at the mine during December 2016. At that time, Mine Safety issued a prohibition notice and required a risk assessment, review of the outburst management plan and implementation of any additional control measures identified. A preliminary assessment has found that the measures helped avoid worker injury or death during the most recent incident.

Respirable dust issues were a focus for proactive mine safety activities. A site assessment and two site briefing meetings at coal mines in the Hunter Valley, western districts and Illawarra regions were undertaken. Mine Safety also conducted a roadway dust sampling workshop during January as part of the department's

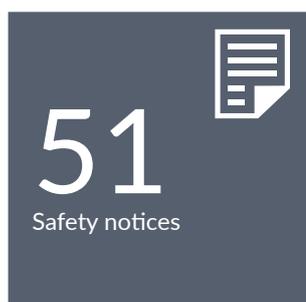
roadway dust sampling and testing program. Another focus was assessing coal industry-wide progress towards having all principal hazard management plans and principal control plans, which are key elements of the safety management system (SMS), in place by 1 February 2017.

Generally there were lower levels of other compliance activities during the month such as inspections and audits partly due to the shutdown period and reduced industry operations, but mainly attributable to changes in the way inspectors are deployed to more targeted activities that review risks controls in greater depth at complex operations with a high number of hazards.

The NSW Resources Regulator launched a new online tool to enable mine operators to submit their quarterly work health and safety reports online with positive feedback received from users.

Activities

Below is a snapshot of the NSW Resources Regulator's activity for January 2017.



An important role of the NSW Resources Regulator is ensuring all operators and title holders are aware of their obligations and how to meet them. Publishing information and guidelines that assist in identifying and managing obligations is a mechanism for achieving this. Training workshops and information sessions also provide a valuable way to engage with industry and assist them to maximise their compliance.

Improving online services

The NSW Resources Regulator launched a new online tool to enable mine operators to submit their quarterly work health and safety reports online. The new online service has been positively received by mine operators. Further user testing of the proposed new Mine Safety online incident reporting form was also undertaken in January. The form will enable mine operators and persons conducting a business or undertaking (PCBUs) at a mine or petroleum site to directly submit notifications online.

Workshops and information sessions

Mine Safety inspectors conducted a roadway dust sampling workshop in January with eight participants attending. The roadway dust sampler is a key part of the statutory function scheme for underground coal mines. The statutory function of a roadway dust sampler is to take roadway dust samples at the mine and ascertain the level of incombustible material in those samples. The prerequisite qualification for undertaking the role is completion of the department's roadway dust sampling and testing course.

Workshops and information sessions

Date	What	Where	Detail
17-18 January	Workshop	Thornton	Mine Safety inspectors conducted a roadway dust sampling workshop with eight attendees.
25 January	Stakeholder engagement activity	Maitland	Subsidence engineering staff met with Chain Valley Colliery and the Department of Planning and Environment to discuss the proposed miniwalls in Chain Valley Bay on the south east end of Lake Macquarie. This is a challenging subsidence matter currently the subject of Chain Valley's feasibility investigations.
25 January	Assessments	Broken Hill	Mine Safety inspectors assessed four applicants for Production Manager permits.

Targeted assessments and audits

Mine Safety's strategic focus on critical controls was directed at respirable dust issues during January. The targeted assessment program's work plan involved a site assessment and two site briefing meetings at coal mines in the Hunter Valley, western districts and Illawarra regions. Respirable dust targeted assessments are key parts of Mine Safety's regulatory approach to ensure airborne contaminants hazards are being appropriately managed in mining.

On 1 February 2017, the legislative transitional arrangements that allowed mine operators to transition their existing management plans in their safety management system (SMS) to the principal hazard management plans and principal control plan requirements in the WHS (Mines and Petroleum Sites) legislation ended. A team of inspectors undertook a key project to assess compliance by obtaining information from all mine operators and reviewing the status of plans for all open cut and underground coal mines and coal handling and preparation plants. An effective SMS is a key regulatory element in the WHS (M&PS) legislation.

Targeted assessments and audits for January 2017

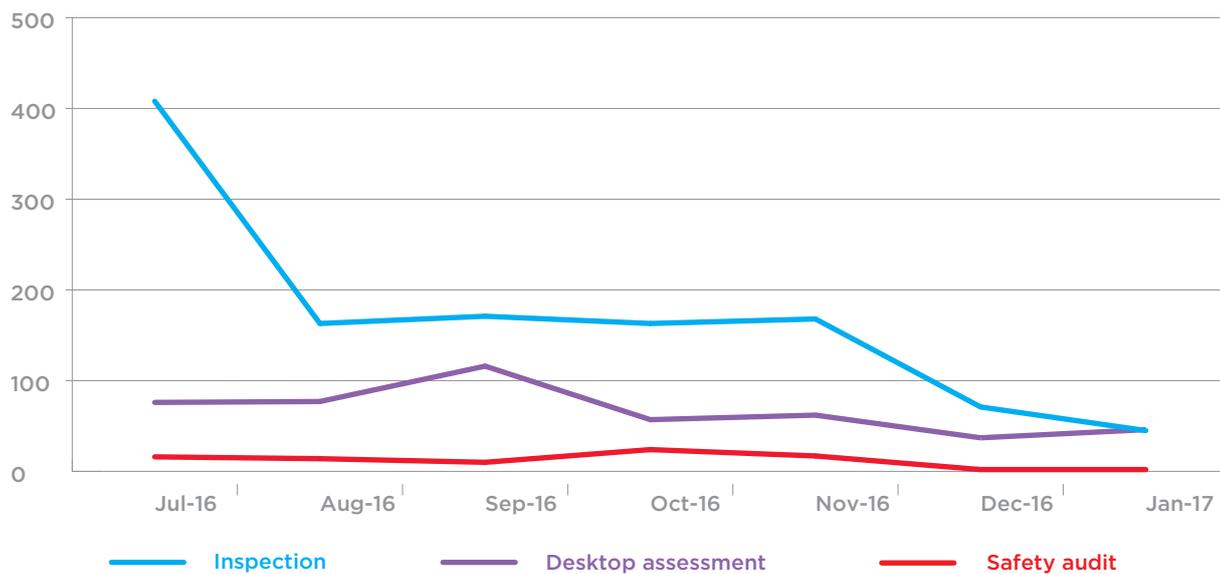
Mine	Program
North Wambo Underground	Targeted assessment: Respirable dust – site assessment
Metropolitan Colliery	Targeted assessment: Respirable dust – site briefing meeting
Ulan West Operations	Targeted assessment: Respirable dust – site briefing meeting



Detailed reports on the outcomes of targeted assessments and audits are published on the NSW Resources Regulator’s website after the program has been completed.

In addition to the detailed targeted assessment programs and audits outlined above, Mine Safety also undertakes a variety of inspections, audits and desktop assessments throughout the year. The graph below summarises the comparative numbers of each from July 2016 to January 2017.

Mine safety compliance activity



July saw a spike in inspection activity due to the Lightning Ridge compliance operation. The reduction in the number of inspections undertaken in December and January is partially attributable to the Christmas shutdown period, but the primary factor is the change in the way inspectors are deployed to more targeted activities that review risks controls in greater depth and are complex operations with a high number of hazards. Planned inspections usually involve two inspectors and an element of pre-planning and preparatory work before the site visit and targeted assessment and/or inspection will usually involve a team of three inspectors and more extensive forward preparation. Overall more inspector hours have been allocated to proactive work, as centralised reporting and management of incidents has improved efficiencies and freed up many inspectors from reactive work.

The NSW Resources Regulator responds to incidents and allegations of non-compliance identified through proactive compliance programs such as inspections and audits, complaints and notifications received, and as a result of investigations.

Due to the different legislation and their reporting requirements, issues of non-compliance can be identified as being those associated with the obligations under the Mining Act, or those relating to mine safety.

Allegations of Mining Act non-compliance

Allegations of non-compliance with the Mining Act may vary from a failure to submit a report on time or in accordance with a condition on title, to undertaking mining without authorisation.



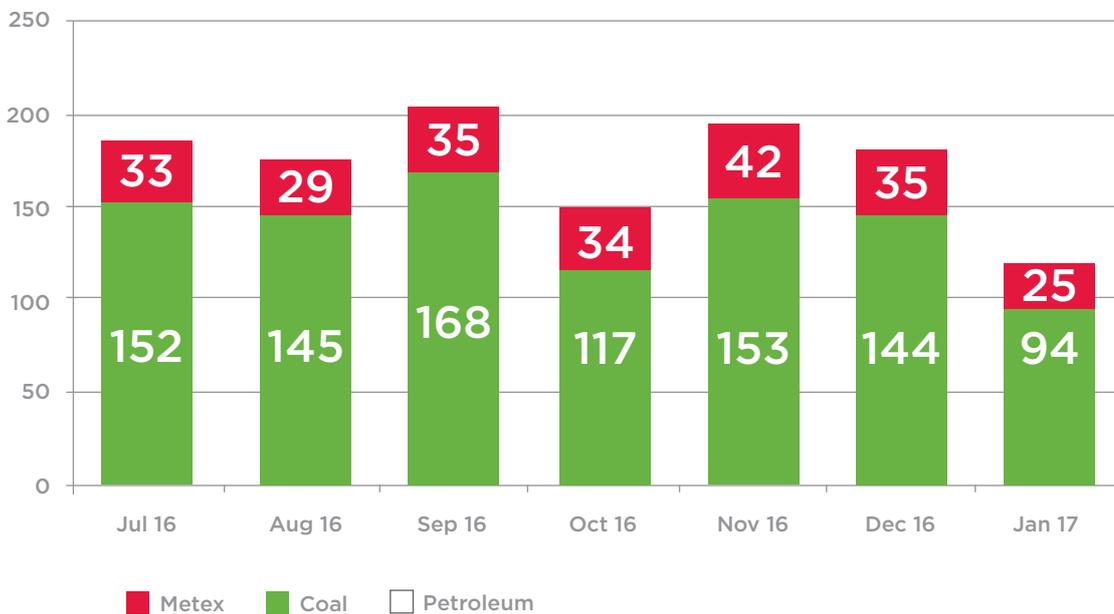
Number of incidents	Alleged non-compliance type
1	Environmental incident
7	Failure to comply with condition(s)
2	Failure to comply with direction(s)
14	Failure to make payment
42	Failure to report
2	Illegal mining or prospecting
1	Illegal fossicking
1	Provision of false and misleading information
1	'Fit and Proper Person' concerns

Mine safety incident notifications

The WHS (M&PS) Act requires duty holders to inform the NSW Resources Regulator of the occurrence of certain incidents. This includes the death of a person, a serious injury or illness, or other prescribed incidents. Notifications received from July to January are shown in the chart below.



Keep up to date on safety incidents by subscribing to **NSW Mine Safety News** via the [NSW Resources Regulator's website](#)



Significant Safety incidents

Date: 4 January

Location: Metropolitan Colliery

Incident: An outburst occurred on the longwall face resulting in the release of carbon dioxide and a significant amount of coal that obstructed passage across the face. No persons were injured.

High risk notifications

Operators of a mine or petroleum site are required under clause 33 of the Work Health and Safety (Mines and Petroleum Sites) Regulation 2014 to give notice of their intention to carry out an activity identified under schedule 3 of the regulation.

High risk activities cover a variety of actions. They can include electrical work on energised electrical equipment, the development of a new entry for an underground mine, driving or widening an underground roadway in a coal mine beyond 5.5 metres, or suspending a petroleum well. The NSW Resources Regulator does not have an approval function but must be notified of the intent to undertake the activity, with a mandated period in which to respond to the notification. High risk notifications received in January are shown in the table below.

High risk notifications received in January 2017

Mine	WHS (M&PS) Regs provision	Activity
Ashton Coal Mine Underground	Schedule 3, clause 12	Driving underground roadway that is wider than 5.5 metres.
Chain Valley Colliery	Schedule 3, clause 13	Driving underground roadway that is wider than 5.5 metres.
Integra Underground	Schedule 3, clause 16(1)(a)	Secondary extraction by long/short/miniwall mining.
Mandalong Mine	Schedule 3, clause 16(1)(a)	Secondary extraction by long/short/miniwall mining.
Mandalong Mine (3 notifications)	Schedule 3, clause 15	Formation of non-conforming pillars.
Mandalong Mine	Schedule 3, clause 13	Widening underground roadway to more than 5.5 metres.
Mannering Colliery (2 notifications)	Schedule 3, clause 12	Driving underground roadway that is wider than 5.5 metres.
Moolarben Coal Operations Underground	Schedule 3, clause 17	Shallow depth of cover mining.
Moolarben Coal Operations Underground	Schedule 3, clause 17	Barrier mining.
North Wambo Underground	Schedule 3, clause 4	Development of new mine entry.
North Wambo Underground	Schedule 3, clause 17	Shallow depth of cover mining.
PPL0004 Mt Taurus 10	Schedule 3, clause 32	Decommissioning of a well.
PPL0004 Mt Taurus 9	Schedule 3, clause 32	Decommissioning of a well.
Tahmoor Colliery	Schedule 3, clause 15	Formation of non-conforming pillars.

Exemptions granted

Mine operators are able to apply for exemptions from provisions of the regulations under clause 684 of the Work Health and Safety Regulation 2011.

Mine or PCBU	Details
Tahmoor Coal Pty Ltd	Drift Rope Haulage Winder - The use of the Men & Materials Drift Winding System (Powered Winding System) at Tahmoor Colliery is exempt from compliance with the requirement of Part 5.3 of the Work Health and Safety Regulation 2011 and Clause 177(2) of the Work Health and Safety (Mines and Petroleum Sites) Regulation 2014 for Powered Winding Systems used in underground mines to be design registered. Term granted: 20/01/2017 - 19/04/17 (3 months).

Investigations into major accidents and incidents

Mine Safety undertook important regulatory intervention activities in relation to a significant gas outburst at the Metropolitan Colliery during January 2017. The gas outburst on the longwall face resulted in the release of carbon dioxide and a significant amount of coal, which obstructed passage across the face. A prohibition notice and scene preservation notice were issued in relation to the incident to prevent further production from the longwall. The incident followed a low-energy gas outburst on the longwall at the mine during December 2016. At that time, Mine Safety issued a prohibition notice and required a risk assessment, review of the outburst management plan and implementation of any additional control measures identified. A preliminary assessment has found that the measures helped avoid worker injury or death during the most recent incident.

Further information is contained in Safety Alert SA17-01 [Gas outburst on longwall face](#).



When a duty holder fails to achieve compliance under the requirements of the legislation, the NSW Resources Regulator seeks to force them to comply with their obligations. The approach taken to do this will depend on the significance and impacts of the breach, the tools available under the legislation, and any applicable compliance and enforcement or prosecution policy.

Date	Entity	Action	Details
30/01/2017	Authority holder PLL3859	Issue of s240(1)(e) direction	Direction to remove waste and rehabilitate area within PLL 3859.

Prosecutions

Prosecution can act both as an actual response to an incident of non-compliance and also as a deterrent to the wider industry. The decision to prosecute is not taken lightly, but is determined in accordance with the [Prosecution guidelines](#).

Prosecutions commenced

No prosecutions were commenced in January.

Prosecutions finalised

No prosecutions were finalised in January.

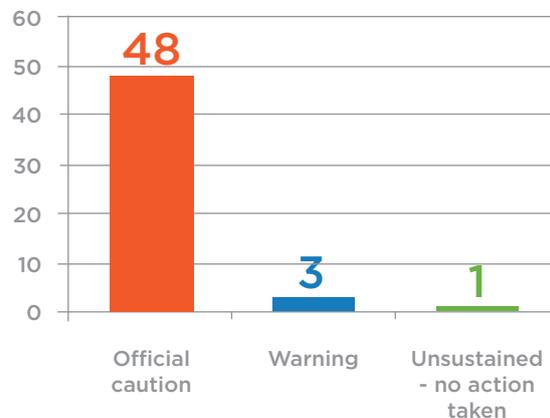
Information on previously finalised prosecutions is available on the [NSW Resources Regulator's website](#).

Penalty notices

Penalty notices, issued under section 378K of the Mining Act, can be used to make a person pay a penalty in relation to an offence. The offences and related penalties are prescribed by the regulations, and may include issues such as mining or prospecting without authorisation or failure to comply with a direction.

No penalty notices were issued in January.

Mining Act enforcement action



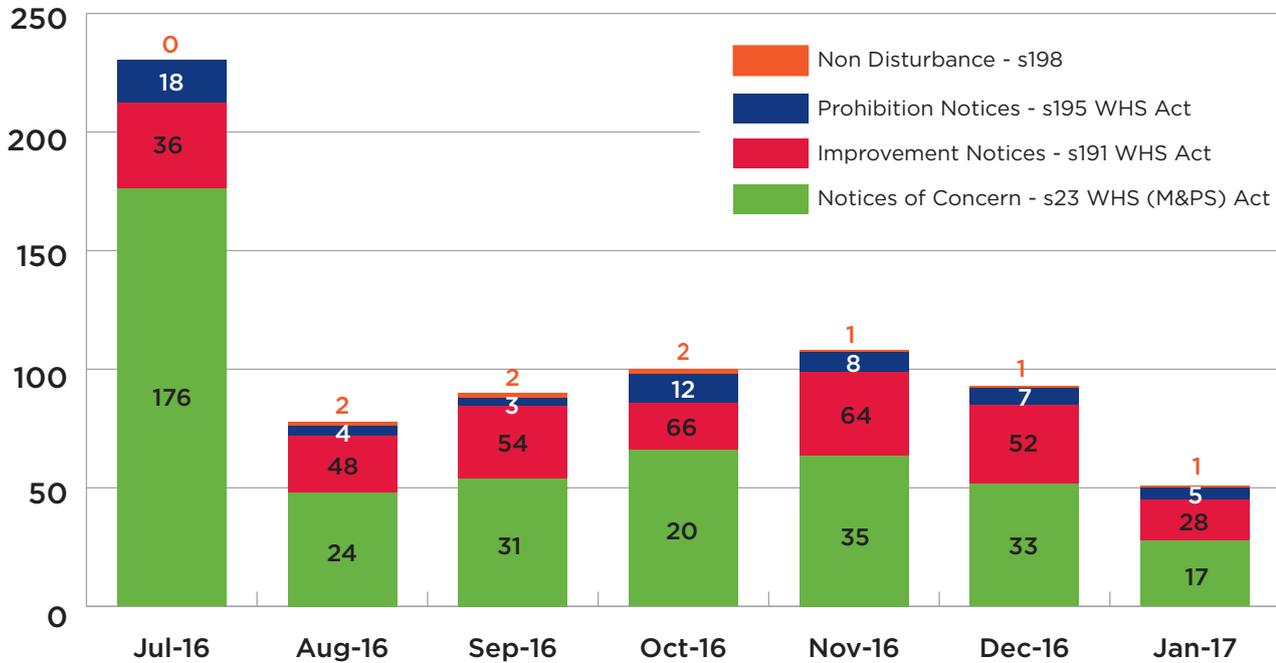
Prohibition notices

Mine Safety inspectors can issue prohibition notices under section 195 of the WHS Act if they believe that an activity is occurring, or may occur, in a workplace that does pose or could pose a serious risk to the health or safety of a person. A prohibition notice outlines the matters that give rise to the risk, and may include directions on the measures to be taken to remedy the risk.

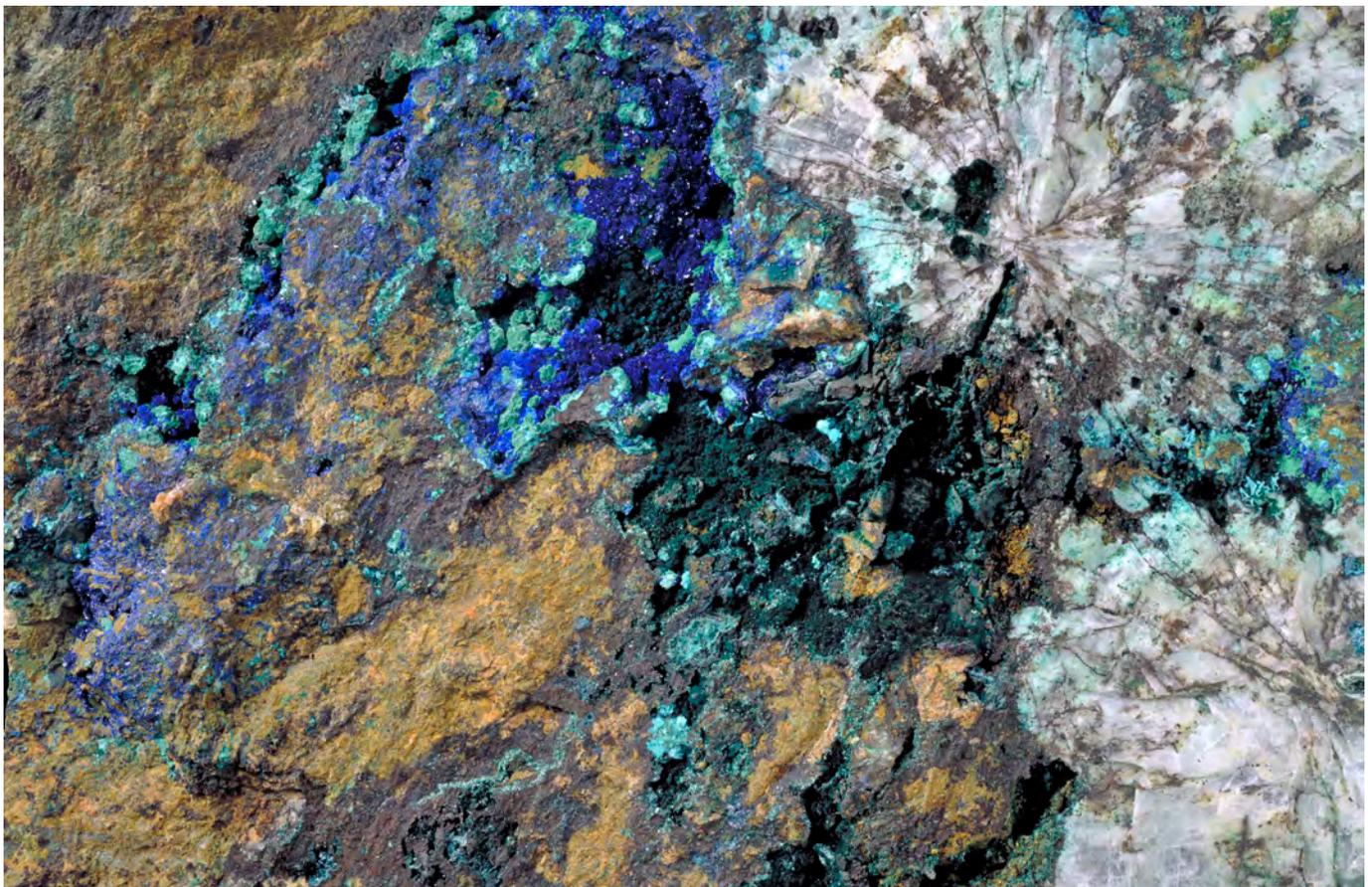
Prohibition notices issued under this provision in January 2017

PCBU	Site	Details	Prohibited activity
Helensburgh Coal Pty Ltd	Metropolitan Colliery	Following a safety incident notification from the mine a safety assessment investigation was undertaken into an outburst that had occurred on the longwall face. The outburst resulted in the release of carbon dioxide and obstruction of passage across the face. No persons were injured.	<p>Longwall production is prohibited (excluding shearing to the maingate to safely position the shearer, running the armoured face conveyor and clearing the walkway).</p> <p>Replaced s195 notice referred to above. Longwall production activities in the area of the geological structure (slip-strike fault F-0001) are prohibited pending review of control measures.</p> <p>Replaced s195 notice referred to above. Longwall production activities in the area of the geological structure (slip-strike fault F-0001) are prohibited pending review of control measures. Mining Longwall 27 from the 201m to 17m chainage is permitted.</p>
Rio Tinto coal (NSW) Pty Ltd	Hunter Valley Operations	Following a safety incident notification received from the mine, a safety assessment investigation was undertaken in regards to the blow out of a Daracon Stemming truck tyre.	Removal of rock or foreign material from rear dual tyres is prohibited until a risk assessment and procedure is developed for tyres less than 24 inches in diameter.
Peak Gold Mines Pty Ltd	Peak Gold Mine	Following a safety incident notification received from the mine, a safety assessment investigation was carried out as to why a materials winder stopped whilst travelling to the surface due to a door interlock alarm. No persons were in the cage.	The use of the main mine winder to transport people into or out of the mine is prohibited pending an investigation into the cause of the failure being determined. Conditional use for emergency and investigation purposes only.

Key notices issued under work health and safety legislation



Increased numbers for July are attributable to the Lightning Ridge compliance operation



Media

The NSW Resources Regulator issues media releases, safety alerts and bulletins on significant activities or issues. These are published on the [NSW Resources Regulator's website](#).

Date	Details
9 January	Safety bulletin - SB17-01 Industry reports more truck rollover incidents
20 January	Safety alert - SA17-01 Gas outburst on longwall face
20 January	Safety bulletin - SB17-02 Mines and preparing for fires

Contact the NSW Resources Regulator



Phone: 1300 814 609



Website: www.resourcesandenergy.nsw.gov.au



Email: resources.regulator@industry.nsw.gov.au



Department
of Industry
Resources Regulator

