

## 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~~ 18<sup>th</sup> July 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):LDO Group

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
Eg 2.1	

## Part 2 - Comments in relation to draft regulation

Clause number	Title of clause and your comment or suggestion
	<p><b>Review Matrix</b>            Yellow highlight cover indicates words or sentence under consultative review            Green highlight cover indicates consultative comment or suggestion (sometimes with example)</p>
3	<p><i>Clause 3 definitions</i></p> <p><i>contractor</i> means a person who conducts a business or undertaking at a mine other than the following:</p> <p>(a) a person who is the mine operator,            (b) a person who conducts any one or more of the following businesses or undertakings (but no other business or undertaking) at the mine:            (i) a delivery business or undertaking (being deliveries that relate solely to clerical or administrative functions at the mine or to matters referred to in paragraphs (ii)–(iv)). This is very difficult to define delivery business or undertaking as contractors on mine sites – how do you practically pre- assess their competence, complete a Site Induction   Delivery drivers like other members of the community (PCBU's) must comply with WHS Laws- section 19 primary duty of care. Unloading / loading etc of delivery truck must be conducted safely by the minesite not the driver. The delivery operator already has obligations under part 3 of WHSR 2011 if a PCBU and if not a worker clause 47 WHSR 2011.            (ii) an office equipment service business or undertaking,            (iii) an office cleaning business or undertaking,            (iv) a catering business or undertaking.</p>
9	<p><b>9 Management of risks to health and safety</b> (cl 617 model WHS Regs)</p> <p>(5) A person conducting a business or undertaking at a mine (who is the mine operator of the mine or who is a contractor) must keep a record of the following:            (a) each risk assessment conducted under this clause and the name and competency of the person who conducted the risk assessment. The word competency is that to mean a Miner driver with 24 years' experience or RIIRIS402D (G2) Competency.</p> <p>Level 2 of Mines Risk Management process. A JSA or JSEA which is still a form of risk management, where workers underground on the job can complete to ensure the task is completed safely. Would be onerous to have all workers with a RIIRIS402D (G2) Competency and may</p>

	<p>cause workers to avoid completion of JSA's. At the moment a level 3 formal WRAC (workplace risk assessment &amp; control) requires a facilitator to have the qualification of RIIRIS402D (G2), which is appropriate however underground a JSA level 2 risk management may be completed by workers – are you saying they require a RIIRIS402D (G2).</p> <p>Info below :</p> <p>Level 1- Take 60sec 4 safety (Take 5etc) - completed prior to task anywhere</p> <p>Level 2 – JSA (JSEA) - completed prior to task anywhere</p> <p>Level 3 – WRAC Workplace risk assessment &amp; control- completed on surface in a classroom environment as a planned, formal approach with relevant and experienced participants to related topic.</p>
16	<p><b>16 Changes to safety management system</b></p> <p>(1) The mine operator of a mine must, before <b>any change</b> to the safety management system for the mine is implemented: “Any change” would be extremely drastic. For example Manual Handling is now known as Hazardous Manual Tasks since 1/1/2012 WHS legislation so the renaming and updating with latest WHS obligations of the Manual Handling Standard to Hazardous Manual Tasks is a change of an element in the safety management system. “a significant change that affects the health and safety of a worker” may be better wording to replace “any change”.</p> <p>(a) give notice of the proposed change to the regulator and an industry safety and health representative in accordance with this clause, and</p> <p>(b) if requested to do so by the regulator, give the regulator a copy of any relevant part of the safety management system document.</p> <p>Maximum penalty:</p> <p>(a) in the case of an individual—\$6,000, or</p> <p>(b) in the case of a body corporate—\$30,000.</p> <p>(2) A notice under subclause (1) must:</p> <p>(a) be in writing, and</p> <p>(b) be made in the manner and form required by the regulator.</p> <p><b>Note.</b> See clause 128 which requires the mine operator of a mine to give the regulator (and an industry safety and health representative in the case of a coal mine) an outline of the contents of the safety management system for the mine before mining operations commence at the mine.</p>
30	<p>CI 30 (2)</p> <p>... the mine operator must <b>regularly monitor</b> all areas at or around the mine where controls are in place for the principal mining hazard of ground or strata failure. Some controls will be almost impossible to monitor, such as (1c from Schedule 1) which will predominantly be in goaf / flooded workings and (1u from Schedule 1) which will sometimes be unable to be monitored at all, especially in closed panels which still may have active controls (for example if a pillar with subsidence requirements started to creep and has been reinforced)</p>
31	<p>CI 31 (1)</p>



	<p>In complying with Clause 9, the mine operator <del>of a mine</del> must <b>assess and</b> manage risks to both health and safety associated with seismic activity at the mine. <del>Delete of a mine</del> <b>Insert "assess and"</b></p>
31	<p>CI 31 (2)</p> <p>In managing risks to health and safety associated with seismic activity, <b>should the risk of seismic activity be perceived as plausible,</b> the mine operator must: <b>Insert should the risk of seismic activity be perceived as plausible (plausible its reasonable or believable)</b></p>
33	<p>CI 33 (2)</p> <p>(k) that all electrical installations have a <b>continuous and effective connection</b> to the earth system, and</p> <p><b>Not all electrical installations are designed based around bonding to earth. For example intrinsically safe systems that have been certified with no earth reference, should therefore not be earthed.</b></p> <p><b>This should be written as "electrical installations above ELV"</b></p> <p>(o) that earth leakage protection is provided <b>on all circuits</b> (including sub-circuits) other than circuits that are isolated from earth.</p> <p><b>Should refer to all circuits above ELV. This clause does not provide for I.S circuits, mobile plant operating at ELV, or ELV wiring systems on fixed or mains powered plant.</b></p>
53	<p>CI 53 (b)</p> <p>No person enters the area at any time to install ground or strata support unless <b>sufficient</b> temporary ground or strata support is provided. <b>Either leave statement as it is and define "sufficient" OR re-word to "unless temporary ground or strata support is provided in compliance with MDG35.1"</b></p>
74	<p>CI 74 (2)</p> <p>(d) fixed <b>real time gas content monitoring</b> of the concentration of methane by volume in:</p> <p>(i) the general body of the air in each main return airway, and</p>

	<p>(ii) the general body of the air in each return airway in a ventilation split, and</p> <p>(iii) air passing through a main exhausting fan or a booster fan.</p> <p>Does not permit the use of tube bundle systems for the monitoring of roadways. Tube bundling is used in conjunction with real time monitoring at a number of coal mines.</p> <p>Current real time systems in use at some coal mines are limited to a cabled distance of approx. 950m from the supplying UPS.</p> <p>Note: DTI Investigation report of Fire and explosion on Longwall No1 tailgate at the Blakefield South Mine 5 January 2011 released in May 2012 states on Page 51 of the report Strategies to prevent recurrence <i>"In the case of Blakefield South Mine, the implementation of the tube bundle system is essential to the future safe operation of the mine."</i></p>
96	<p><b>96 Safe escape and refuge</b> (cl 672 model WHS Regs)</p> <p>6(e) procedures for rehydration and communication in an irrespirable atmosphere, and Rehydration would be very difficult without removing the mouthpiece/mask</p>
99	<p><b>99 Self-rescuers</b> (cl 674 model WHS Regs)</p> <p>(1) The mine operator of an underground mine must ensure that a person who is to go underground is provided with an appropriate self-contained self-rescuer if there is a risk of an irrespirable atmosphere in the underground mine (including during an emergency). Should this also say self-contained self-rescuer or a filtered self-rescuer. What is definition of self-contained? – key terms in Draft COP requires re-defining. (filter self –rescuers MSA types W65 and W95 are these to be removed from the coal industry?).</p> <p>(3) Training for the purposes of subclause (2) must include:</p> <p>(a) training, in a simulated work environment, each worker in the donning and change-over of each type of self-contained self-rescuer that the worker may be required to use before the worker initially commences work at the mine and then every 3months after that, and every 3months</p>

	<p>would be a major burden- 12 weeks comes around very quickly- 6 months would me more realistic.</p> <p>(b) having each worker operate each self-contained self-rescuer that the worker may be required to use whilst undertaking physical effort similar to an evacuation situation before the worker initially commences work at the mine and then every 3 years after that.</p>
104	<p><b>104 Duty to provide induction for workers</b> The mine operator of a mine must ensure that before a worker commences work at the mine, the worker is given information, training and instruction on the safety management system for the mine that is designed to provide the worker with knowledge of <b>all aspects</b> of the safety management system.</p> <p>Major burden for mine to inform, train and instruct a worker with all aspects of the safety management system, suggest the relevant elements of the safety management system relevant to the tasks the worker is to perform. New workers need to be informed, trained and instructed in a staged approach over a period of time – not all in one go “death by power point” syndrome. Safety Management System is much more than the prescribed major hazard management plans. Underground Induction for a new mineworker already takes one full week of classroom face to face and that is only to deliver the basic elements of the Safety Management System and a walkout of second egress with SCSR training.</p> <p>The mine operator of a mine must ensure that before a worker commences work at the mine, the worker is given information, training and instruction on the <b>relevant elements of the</b> safety management system for the mine that is designed to provide the worker with knowledge of <b>all relevant</b> aspects of the safety management system.</p>
127	<p>CI 127 (4) (f) <b>progressive pillar failure or creep,</b> It is very hard to determine the point at which a pillar has started to creep and therefore makes it difficult to comply with the nominated notification periods</p>
166	<p>Work Health and Safety (Mines) Regulation 2014 Clause 166 Safety and health representatives Part 12 <b>Part 12 Safety and health representatives</b> Why change the terminology of the WHS Act (Part 5 Div 3) and Regulations from H &amp; S Representative (HSR) to S &amp; H Representative (SHR). This will only cause confusion and shows immaturity, Suggest you look at Clause 38(e) of the WHS Regs as you quote it continually and yet the terminology adopted in the mining regulations is opposite – does not make sense</p>
Schedule 7	<p><b>Schedule 7 Matters to be included in emergency plan for a mine</b> (Clause 87) (Sch 22 model WHS Regs)</p>



**4 Resources and equipment**

(1) On-site emergency resources, including:

(a) first aid equipment, facilities, services and personnel, and

(b) emergency equipment and personnel, including adequate and compatible fire fighting equipment such as foam generators, and

(c) gas detectors, wind velocity detectors, sand, lime, neutralising agents, absorbents, spill bins and decontamination equipment. Suggest to drop out sand and lime as this has been taken from WORK HEALTH AND SAFETY REGULATION 2011 - SCHEDULE 16 SCHEDULE 16 – Matters to be included in emergency plan for major hazard facility (Clause 557) Mines are not classed as a Major Hazard facility and furthermore if there were a requirement from an SDS (old MSDS) then this would be identified during the risk management process on bringing a hazardous material/substance or dangerous goods on site. Having sand and lime incorporated in the emergency resources and equipment may introduce hazardous manual task issues (manual handling) when moving emergency equipment around the mine.

**4 Resources and equipment**

(4) For an underground mine, a means of communication between the surface of the mine and any underground area of the mine where persons are located, that is effective even if there is no electrical connection between the surface and the relevant underground area. This may well be impossible over distances of 700 metres plus without having repeaters stations which will require an electrical connection. Also other types of communication systems require aerials and some mines have no access to surface land above the mine to install aerials, other mines may have a body of water over the mine eg lake macquarie