

Open cut examiner of coal mines other than underground mines

Introduction

Type	Details
Name of the statutory function	Open cut examiner
Class of mine	Coal mines other than underground mines
Key statutory function?	No
Mining supervisor?	Yes

Statutory functions are certain safety-critical roles in the mining and extractives industry that are regulated by the department. This document has been developed for people who exercise specific statutory functions to help them understand their duties, key relationships, tasks and work practices. Schedule 10 of the Work Health and Safety (Mines and Petroleum Sites) Regulation 2014 (WHS (M&PS) Regs 2014) regulates statutory functions.

This document will:

- inform you of what exercising your function involves
- help mine operators and individuals to develop training and/or mentoring programs to support individuals to practice in the function
- assist mine operators to develop their safety management system, including management arrangements
- guide mine operators and you when identifying maintenance of competence learning to be undertaken.

Please note, a [list of key terms](#) and [legislative provisions](#) can be found at the end of this document.

Guidance on statutory function

Extract from the WHS (M&PS) Regs 2014, Schedule 10, Part 3, clause 18:

- (1) The statutory function of open cut examiner is to supervise workers and inspect work areas in a part of the mine.
- (2) The requirement for nomination to exercise the statutory function is that the individual nominated must hold a current practising certificate that authorises the exercise of the statutory function.
- (3) This clause does not apply to a coal mine at which no extraction occurs.

Exercising the function

An individual exercising the function should:

Supervise workers - provide direct and general supervision (refer [key terms](#)) of workers in the area of the coal mine they are responsible for. The level and type of supervision should be appropriate to the workplace risks and worker competence. This may include but not be limited to a combination of the following activities:

- Continually assess the workplaces and being informed of hazards and controlling them (refer also to inspections below and WHS laws¹).
- Consult on WHS matters as required.
- Train, instruct and inform on WHS matters to potentially affected workers and other supervisors, and documenting the information for shift changeovers as per clause 27 of the WHS (M&PS) Regs 2014.
- Organise sufficient and appropriate WHS resources for workers.
- Apply the safety management system for required plans and controls.
- Attend workplaces as required to supervise workers and activities to establish their whereabouts and ensure risks are managed.
- Supervise the carrying out of work procedures to ensure they are effective and workers are compliant.
- Investigate and report on incidents, including preserving the scene for certain reportable incidents.
- Apply the emergency plan to supervise workers to safely withdraw or escape.

Inspect work areas in a part of the mine:

- Conduct physical inspections, or cause them to be conducted, for a designated part of the mine as required by the safety management system, including the mine inspection plan.
- Report outcomes of inspections and take appropriate action to manage hazards or risks identified.

Scope and relationships

The statutory function of open cut examiner applies to coal mines other than underground mines.

If you exercise this statutory function, you must follow the management structure set out in the safety management system. You may have to interact with other individuals exercising statutory functions at the mine. These people include:

- **Mining engineering manager** – for the development of mining engineering standards and procedures that are to be applied, and for them to be monitored and reviewed to remain current.

¹ Means the *Work Health and Safety Act 2011*, *Work Health and Safety Regulation 2017*, *Work Health and Safety (Mines and Petroleum Sites) Act 2013* and *Work Health and Safety (Mines and Petroleum Sites) Regulation 2014*.

- **Electrical and mechanical engineers** - apply the electrical and mechanical engineering standards and procedures forming part of mining operations, together with supervision of the lifecycle of mechanical and electrical plant and installations at the mine.
- **Mining surveyor** – assist with preparing the mine survey plan for prescribed items, if required by the safety management system or if it is necessary to control work health and safety risks.
- **Qualified electrical and mechanical tradespersons** - as required.

Statement of minimum tasks

If you exercise a statutory function, you should carry out the following tasks in relation to the mine's safety management system.

Generally

For the applicable elements of the safety management system:

- Manage risks.
- Supervise contractors and their management plans.
- Mine inspection plan.

Principal hazards

Supervise the application and monitoring of the principal hazard management plans for all applicable prescribed principal hazards referred to in clause 5 of the WHS (M&PS) Regs 2014, and any others.

Principal control plans

- Supervise the application and monitoring of the principal control plans as required for mining engineering standards and procedures.
- Refer to [Scope and Relationships](#) for implementation with other statutory function holders.

Specific control measures (application as prescribed in the WHS laws)

- Apply and monitoring specific control measures for all mines, underground mines and coal mines (other than underground coal mines).
- Supervise the application and monitoring of emergency plans.

Information, training, instruction and consultation

- Supervise the delivery of information, training and instruction for mining engineering standards and procedures.
- Participate in mine consultation processes internally and externally as directed.

Monitoring, auditing and review

- Monitor the performance of the safety management system against the mining engineering standards as part of supervising.

- Monitor the compliance of the safety management system with reporting mine incidents, matters and reportable incidents to the regulator, including:
 - Notify the regulator of a *high-risk* activity prescribed by the NSW WHS (M&PS) Regs 2014.
 - Notify the regulator where an incident occurs prescribed as a *notifiable incident* by the WHS (M&PS) Regs 2014.
 - Supervise the preservation of incident sites.
- Participate in the audits and reviews of the safety management system, as required.

Mining supervisor

This statutory function is a mining supervisor under clause 3 of the WHS (M&PS) Regs 2014 but has no specific additional requirements.

Note

The safety management system forms part of the overall management system of a mine². The mine management system may follow a management approach, such as:

- plan, do, check, act
- identify, assess, control and review.

You should exercise your statutory function to meet your obligations under your safety management system and the WHS laws. Which management approach is used at your mine does not affect your obligations.

Work practices

How the deputy exercises the statutory function will be determined by the mine operator in the safety management system and the applicable legislation, in particular WHS laws. A typical cycle of work practices during a shift that a deputy may undertake is set out below:

Shift commencement

- Source any information relevant to supervising their assigned area of mining operations so they may act upon it e.g. mine plans, authority to mine etc.
- Incoming open cut examiner may make contact with any outgoing open cut examiner(s) for a verbal report and to clarify anything necessary;
- Communicate with other incoming shift supervisors and any other workers, including the mining engineering manager if necessary, for any significant WHS issues that they need to be informed of, with reference to the legislated written reports.
- Determine the inspections that may be required e.g. conveyor inspection, inspection prior to workers commencing work etc.

² Clause 13(4) Work Health and Safety (Mines and Petroleum Sites) Regulation 2014.

- Allocate the appropriate resources to workers.
- Attend or conduct start of shift communication meeting with workers.

In the area of the coal mine for which the open cut examiner is responsible

- Shift start-up:
 - Read and sign off on outgoing open cut examiner report for the previous shift and communicates contents to workers as required.
 - May inspect work areas, cause them to be inspected, or rely on information available from reports and/or communication with workers, as required by the safety management system, to ensure risks are controlled before work commences.
 - Consult with and provide relevant information and instruction to workers to enable them to safely carry out their assigned work.
- During the shift:
 - Supervise workers and the work activities being carried out.
 - Consult with workers and supervisors in relation to any changing conditions/requirements, risk management, resourcing etc.
 - Carry out mine inspection plan for work areas during the shift and make entries in the shift report, as required.
 - Monitor hazards and risks, including air contaminants (e.g. dust).
 - Ensure that risk controls are applied and controlling the hazards and their risks.
 - Instruct workers and monitor work practices (including contractors), with reference to any work procedures and plans.
 - Monitor plant being used and workers entering the work area(s), in particular mobile plant movements.
 - Report significant shift activities, such as safety critical changes or incidents, to persons in the mine management structure in the safety management system. This may include any other supervisor whose work area may be impacted.
- End of shift:
 - Complete shift report and sign off on it.
 - Communicate with any incoming open cut examiner(s).
 - As far is reasonable practicable and applicable, support any incoming shift workers to have safe mining operations and a safe workplace e.g. power isolated.
- Scheduled tasks (as directed as part of planning for the shift and mine):
 - Apply the safety management system so workers remain familiar with the emergency exits and facilities.
 - As directed, supervise workers to participate in the testing of the emergency plan as required, which is legislated as at least every 12 months.
 - As directed, supervise workers to participate in the mine training program for workers.

Statutory provisions

The WHS (M&PS) Regs 2014 defines statutory functions, authorises you to exercise your function, and outlines the statutory function framework through a number of clauses:

- Clause 136: only an individual who meets the requirements can exercise the function and only if they are nominated by the mine operator.
- Clause 137: the mine operator must ensure the nominated individual continues to meet the requirements and is able to exercise the function.
- Clause 138: an individual must inform the mine operator if they cannot exercise the function.

Key terms³

Term	Definition
Apply	To put into practical operation or to put to use, e.g. an inspection program.
Develop	To bring into being or activity, generate or evolve. The term includes further adding to and amending standards and procedures that form part of the safety management system.
Implement	To put into effect, either directly or by causing others to carry out actions.
Lifecycle	For mining operations, this means the activities for exploration, construction, commissioning, extraction and those in connection with it, and the decommissioning of a mine.
Mining operations	For a definition of this term, refer to section 7 of the <i>Work Health and Safety (Mines and Petroleum Sites) Act 2013</i> . Mining operations includes lifecycle activities.
Monitor	To check, observe, supervise and/or record the operation of a mine, part of a mine, workers or related activities so as to assess the suitability of mining engineering standards and procedures to manage potential or actual risks.
Review	A retrospective assessment of something with the intention of instituting change if necessary.
Safety management system	All activities planned and documented by the mine operator to be carried out to manage health and safety risks at the mine in an organised manner.

³ Some meanings are derived from the Macquarie Dictionary and added to for context.

Term	Definition
Standards and procedures	<p>Written internal or external documents that set out or provide guidance on how mining operations should be carried out to achieve a performance level for WHS. This may include mining, electrical, mechanical or other areas. The standards may include:</p> <ul style="list-style-type: none"> → WHS legislation and codes of practice → international and Australian standards → guidance information from various sources that are credible, current and substantive → industry publications such as WHS reports.
Supervise	<p>Oversee or direct some part of mining operations. The open cut examiner should normally provide general supervision, but at times may exercise direct supervision, such as to verify critical controls are working or high-risk activities are being managed. This could include, for example, commissioning a large new piece of plant.</p>
Direct supervision	<p>Verifying through direct observation that mining operations and any contractors involved are applying the requirement of the safety management system.</p>
General supervision	<p>Where the individual may not always be present or directly responsible for supervising the activities, but will monitor to ensure that the safety management system is implemented, applied and monitored, and provide advice to supervisors and workers.</p>

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