



Department
of Industry
Resources Regulator

NSW Resources Regulator

Monthly business activity
report: December 2016



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.

This report provides a summary of the activities of the NSW Resources Regulator for the month of December 2016.



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.

Tragically a mining fatality occurred in December, with the death of a coal mine worker at the Rix's Creek Mine in the upper Hunter Valley - the second fatality in the NSW mining industry in the past 12 months. The worker sustained critical head injuries while undertaking work in and around the tailgate and trailer of a coal hauler. The NSW Resources Regulator has commenced an investigation into the incident and has published an incident information release on preliminary findings.

Compliance action was also taken in relation to a low-energy gas outburst at the Metropolitan Colliery requiring the mine to undertake a risk assessment, review their outburst management plan and implement additional control measures. Notably a more substantial gas outburst occurred at the mine two weeks later and a preliminary assessment has found that the action taken by the NSW Resources Regulator in December helped avoid worker injury or death during the second incident.

A compliance campaign was launched in relation to the late payment of fees and the late lodgement of reports under the *Mining Act 1992*. Correspondence was sent to all titleholders and key stakeholders informing that the NSW Resources Regulator would be taking an escalated approach to these types of offences.

In other compliance activities, the NSW Resources Regulator completed three audits as part of a joint agency compliance program on Dam Safety Management Systems. The program involved joint audits by the NSW Environmental Protection Authority, NSW Department of Planning and Environment and the NSW Resources Regulator.

The targeted assessment programs continued to be a focus during December with activities on explosion suppression, respirable dust in coal mines and fall of ground. Targeted interventions were also actioned in relation to emergency preparedness and response and WHS Act officer duties.

In engagement activities, Mine Safety played a significant role in the NSW Mine Safety Advisory Council (MSAC) Airborne Contaminants Roundtable convened by the Minister. The event brought together 75 key stakeholders and experts in regulation, mining and health to consider the NSW regulatory scheme for addressing airborne contaminants, with Mine Safety delivering keynote presentations.

Mine Safety also delivered presentations on legislation, enforcement and human and organisational factors at coal mine safety and health representative training in Wollongong and Cessnock conducted by the Construction, Forestry, Mining and Energy Union (CFMEU).

Following a number of recent investigations into complaints of workplace bullying, an information release was published to assist mine operators and workers to understand their duties and responsibilities in relation to workplace bullying.

Activities

Below is a snapshot of the NSW Resources Regulator's activity for December 2016.



Workshops and information sessions

Date	What	Where	Detail
1 December	Information Session	Gosford	Industry information sessions on the end of transitional arrangements under Work Health and Safety (Mines and Petroleum Sites) Regulation 2014 for metalliferous and extractives mines.
8 December	Workshop	Wollongong	Conducted a human and organisational factors session with Southern Safety and Health Representatives.
19-22 December	Information Sessions	Eden, Bermagui, Moruya and Batemans Bay	Conducted information sessions with small mine operators regarding the development of safety management systems, principal hazard management plans and control plans.

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.

Workshops and information sessions

Mine Safety played a significant role in the NSW Mine Safety Advisory Council (MSAC) Airborne Contaminants Roundtable convened by the Minister in early December. The event brought together 75 key stakeholders and experts in regulation, mining and health to consider the NSW regulatory scheme for addressing airborne contaminants. Particular focus was placed on the risks associated with coal dust, silica and diesel particulates. The event was coordinated by the MSAC Secretariat. The Chief Inspector and the Director Mine Safety Performance delivered keynote presentations on the regulatory scheme and Mine Safety's compliance and enforcement strategy for airborne contaminants.

Mine Safety delivered presentations on legislation, enforcement and human and organisational factors at coal mine safety and health representative training in Wollongong and Cessnock conducted by the Construction, Forestry, Mining and Energy Union (CFMEU). Mine Safety also presented to the Mines Rescue Service's Annual Order 34 Workshop on the development and implementation of the maintenance of competence regime for holders of statutory function practising certificates.

Targeted assessments and audits

The targeted assessment programs continued to be a focus during December with activities on explosion suppression, respirable dust in coal mines and fall of ground. Targeted interventions were also actioned in relation to emergency preparedness and response and *WHS Act 2011* officer duties.

The NSW Resources Regulator conducted a targeted intervention at Narrabri Underground Coal Mine relating to emergency escape and rescue arrangements. The intervention identified a number of non-compliance issues and two improvement notices were issued to the mine.

The audit team completed its final audits as part of a joint agency program to look at Dam Safety Management Systems. The program involved joint audits by NSW Environmental Protection Authority, NSW Department of Planning and Environment and the NSW Resources Regulator. It proved to be a very worthwhile and effective exercise, with positive feedback received from both those conducting the audits and those being audited. The NSW Environmental Protection Authority will publish a report on the program in the near future.

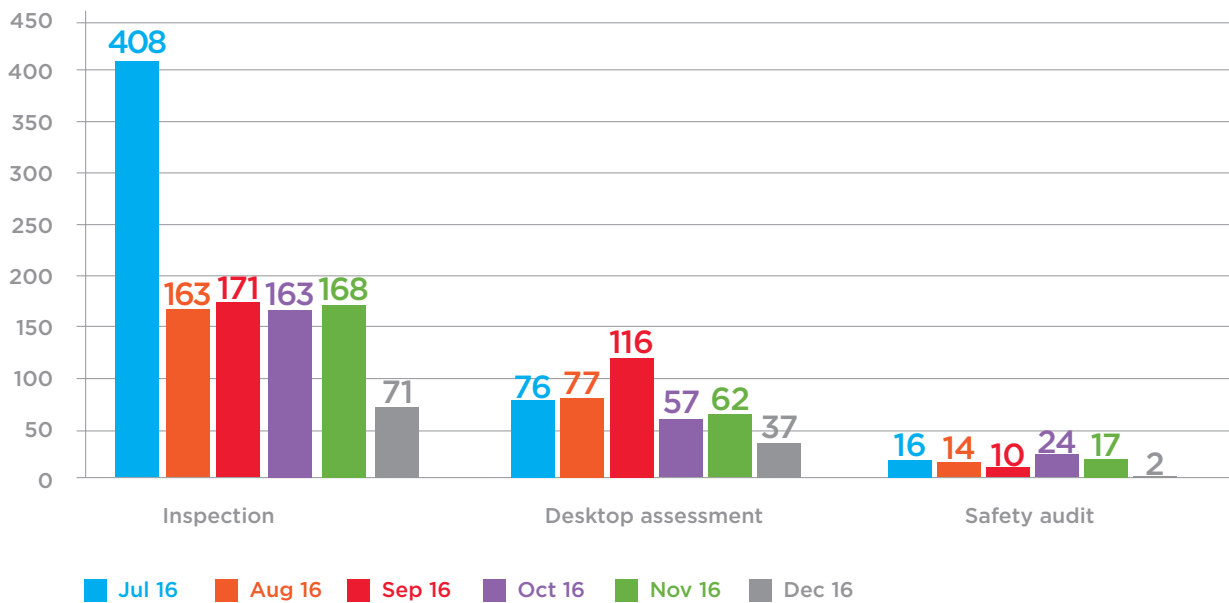
Mine Safety TAPs and audits for December 2016

Mine	Program
Whitehaven Narrabri	Targeted intervention program - Emergency preparedness and response
Glencore Integra	Targeted intervention program - S27 Duties of officers - resumption of production activities
Centennial Mandalong	Targeted assessment program - Explosion suppression - assessment
Yancoal Ashton	Targeted assessment program - Respirable dust - assessment
Peabody Wambo	Targeted assessment program - Respirable dust - assessment
CMOC Northparkes	Targeted assessment program - Fall of ground - follow up meeting subsequent to issuing of notices
Northparkes Mine, Parkes	Audit - Dam safety management systems
Tritton Mine, Girilambone	Audit - Dam safety management systems
Drayton Coal Mine, Muswellbrook	Audit - Dam safety management systems

A detailed report 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 to December 2016.

Mine safety compliance activity



*July saw a spike in inspection activity due to the Lightning Ridge compliance operation.

The NSW Resources Regulator responds to incidents 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 1992*, or those relating to mine safety.

Incidents of Mining Act non-compliances

Incidents of non-compliance with the *Mining Act 1992* 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
10	Failure to comply with a condition
1	Failure to comply with a direction
3	Failure to report
2	Illegal mining or prospecting
2	Provision of false and misleading information
1	Disturbance incident

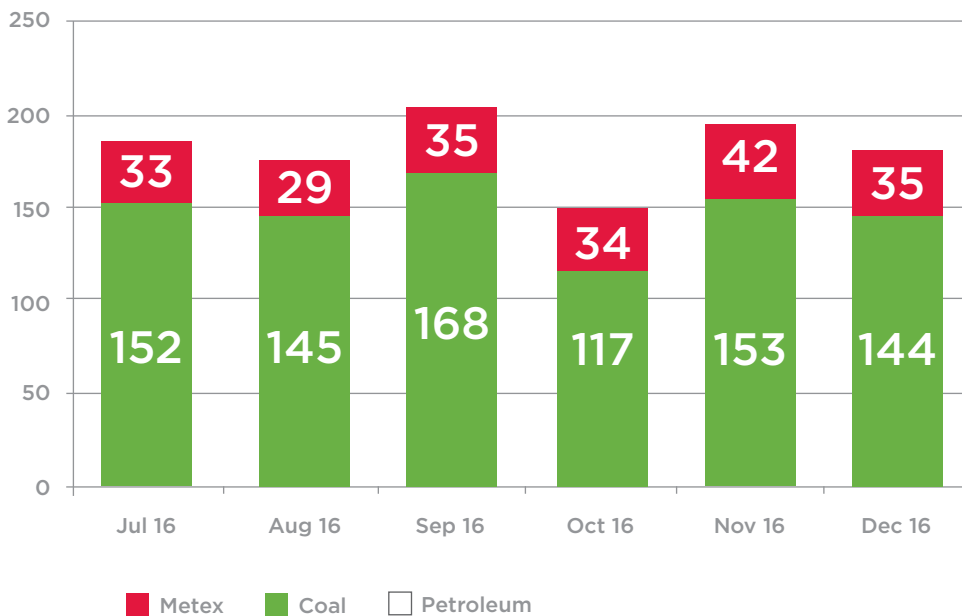


Mine Safety incident notifications

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 December 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: 13 December

Location: Rix's Creek Mine

Incident: The driver of a coal truck was working at the back of a truck when the tailgate swung down and struck him causing critical head injuries. The driver died later from his injuries.

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 December are shown in the table below.

High risk notifications received in December 2016

Mine	WHS (M&PS) Regs provision	Activity
Appin Colliery	Schedule 3, clause 8	Roadway or drift without intersection for 250 metres
Austar Coal Mine - Underground	Schedule 3, clause 12	Driving underground roadway that is wider than 5.5 metres
Clarence Colliery	Schedule 3, clause 7(2)(b)	Working in an inrush control zone
Mannering Colliery	Schedule 3, clause 20(3)(a)	Use of explosives designed for use in coal mines
Metropolitan Colliery	Schedule 3, clause 16(1)(a)	Secondary extraction by longwall mining, shortwall mining or miniwall mining
Moolarben Coal Operations - Underground	Schedule 3, clause 13	Widening an underground that is wider than 5.5 metres
Myuna Colliery	Schedule 3, clause 20(3)(a)	Use of explosives designed for use in coal mines
Myuna Colliery	Schedule 3, clause 9	Shotfiring
Narrabri Colliery	Schedule 3, clause 4	Development of new mine entry
Rix's Creek Mine	Schedule 3, clause 27	Emplacement areas
Tahmoor Colliery	Schedule 3, clause 13	Widening an underground roadway to more than 5.5 metres

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
Perilya Broken Hill	<p>Order 159227-1: an exemption for design registration of Skip haulage winder for a period of four months.</p> <p>Order 159228-1: an exemption for design registration of Main cage winder for a period of four months.</p>

Investigations into major incidents

Tragically a mining fatality occurred in December, with the death of a coal mine worker at the Rix's Creek Mine in the upper Hunter Valley - the second fatality in the NSW mining industry in the past 12 months. The worker sustained critical head injuries while undertaking work in and around the tailgate and trailer of a coal hauler. It follows the tragic death of an opal mine worker at Lightning Ridge in November. An investigation is currently being conducted to examine the cause and circumstances of the incident..

An investigation information release about the incident was published on 23 December 2016. The information release highlights the risks associated with falling objects and the importance of adequate control measures.



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.

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 December.

Prosecutions finalised

No prosecutions were finalised in December.

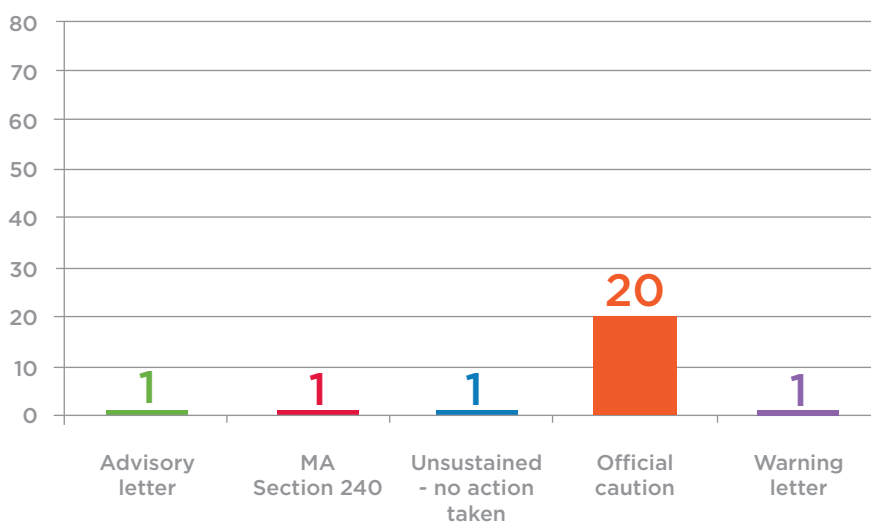
Information on previously finalised prosecutions is available on the [NSW Resources Regulator's website](#).

Penalty notices

Penalty notices, issued under section 378K of the *Mining Act 1992*, 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 December.

Mining Act enforcement action



Prohibition notices

Mine Safety inspectors can issue prohibition notices under section 195 of the *WHS Act 2011* 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.

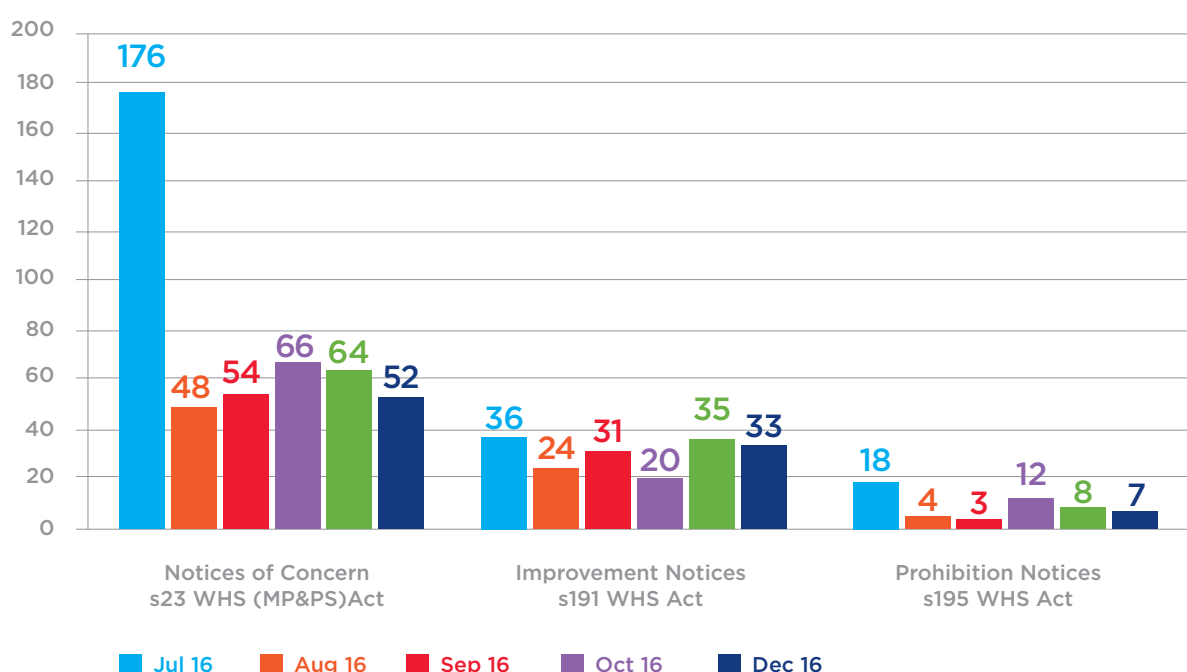
Prohibition notices issues under this provision in December 2016

PCBU	Site	Details	Prohibited activity
Cobar Management Pty Ltd	CSA Mine	A friction powered winding system on the No. 2 shaft carrying workers was ascending from the 9-level when it hit something, possibly the retractable plat. The winder was put into manual mode, the plat retracted and the winder was put back into automatic mode.	Operation of the winder in the No. 2 shaft in manual mode is prohibited except in accordance with a documented permit system.
Bloomfield Collieries Pty Ltd	Rix's Creek Mine	An individual sustained fatal head injuries while undertaking work in and around the tailgate and trailer of a coal hauler.	No person is permitted to work in the trailer or on or about the tailgate of the trailer on the coal haulage trucks owned and operated by RW & LM Simmons at Rix's Creek Mine.
RW & LM Simmons Pty Ltd	Rix's Creek Mine	An individual sustained critical head injuries while undertaking work in and around the tailgate and trailer of a coal hauler.	No person is permitted to work in the trailer or on or about the tailgate of the trailer on the coal haulage trucks owned and operated by RW & LM Simmons at Rix's Creek Mine.
Yancoal Mining Services Pty Ltd	Ashton Underground	Operation of Caterpillar AFC drives fitted with CST servo unit identified as non-conforming.	Prohibited energising of CST servo valves as fitted on the AFC drives of the longwall face while in a hazardous zone unless in accordance with the controls identified in 'Risk Assessment for Operation of the Longwall with the non-explosion protected MOOG valve' dated 29/10/2016.

Prohibition notices issues under this provision in December 2016 (continued)

PCBU	Site	Details	Prohibited activity
Narrabri Coal Operations Pty Ltd	Narrabri Colliery	Operation of Caterpillar AFC drives fitted with CST servo unit identified as non-conforming.	Prohibited energising of CST servo valves as fitted on the AFC drives of the longwall face while in a hazardous zone unless in accordance with the controls identified in 'WHC_RSK_NAR_D631k600 Series Servo Valve Non-Compliance V2 161029' dated 29/10/2016 and maingate CH4 monitoring to be adjusted in line with the values communicated for the tailgate monitoring.
Peak Gold Mines Pty Ltd	Peak Gold Mine	A winder stopped whilst travelling to the surface with workers due to an interlock alarm.	The use of the main winder to move personnel to and from the mine is prohibited until the cage door interlocking and latching mechanisms are repaired/restored to their registered design condition.
Helensburgh Coal Pty Ltd	Metropolitan Colliery	An outburst occurred on longwall 27.	Production on longwall 27 and any activity where the face will potentially be disturbed is prohibited until control measures are identified, documented and implemented in a revised outburst management plan.

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 on significant activities. These are published on the [NSW Resources Regulator's website](#).

Date	Details
1 December	Safety alert - Workers exposed to elevated levels of methane
1 December	Safety alert - Operator suffers broken arm while operating high pressure hose
6 December	Safety bulletin - Exposure of copper or copper alloys to ammonium nitrate - TACN formation
7 December	Media release - Compliance campaign - late payments and reporting under the Mining Act
9 December	Safety alert - Non-compliant stone dust supplied to underground coal mine
15 December	Media release Revisions to 'Statements of corporate compliance, environmental performance history and financial capability template'
21 December	Incident information release - Workplace bullying
22 December	Safety bulletin - Injuries incurred from falling plant
23 December	Incident information release - Fatality after being struck by truck tailgate

Contact the NSW Resources Regulator



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