

## 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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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

## Part 2 - Comments in relation to draft regulation

Clause number	Title of clause and your comment or suggestion
Part 1 (3)	Definitions: contractor – This definition presumably seeks to provide exemption for people undertaking a number of non-core and low risk activities from the stringent requirements that (reasonably) apply to contractors exposed to the ‘mining environment’. The exemptions are very specific and do not adequately meet this (presumed) objective. There are a numerous other activities that have risk profiles similar or lower than those exempted. Request an additional subparagraph (b) (v) “a business or undertaking that is not specific to mining or the servicing of mining and in performing duties at a mine is not exposed to the ‘mining environment’ or mine related risks” Under the current wording, a (say) software development engineer that comes to update a business system in the administration office would be considered a contractor. Alternately there should be provisions elsewhere that allow the mine operator to exempt contractors from inappropriate requirements where a risk assessment determined the contractor to be engaged in low risk activities.
3 (b)	Does not specify all low-risk contractors for example: consultants requiring field observations. Tritton proposes that an exemption also applies to “other low-risk contractors” as determined by Operator.
9 (2)	Risk assessments are generally conducted by engaging people from different departments and with different experiences and skillsets to ensure that the range of risks and potential outcomes are identified. It is not practicable that formal risk assessment competencies must be held by all of those involved. Guidance is required regarding the competency level according to new WHS regulations? It is suggested that, for the purpose of this clause, ‘competent person’ be read as person/s deemed competent by PCBU.
16 (1)	Changes to safety management system – Operators should only be required to give notice of change to the regulator for changes to principle control plans. Changes to other documents required under these plans, made in consultation with the workforce should not be held to this same standard.
20	Requires definition of “define ‘mining operations”.
26	Request that “mining operations” be a defined term and/or guidance regarding who this will apply to.
27	Communication between outgoing and incoming shifts – 27 (b) is explicit in regard to “signing” a physical document and does not allow for a computerised system. The intention is (presumably) to ensure that there is a clear record of the information passed onto a subsequent shift Request that 27 (b) be changed to “the supervisor of the outgoing shift signs the report or is otherwise evidenced to have created the report, for example electronically, and” or similarly to acknowledge non-paper communication methods Regarding 27(d) the presumed intent is that there is a formal mechanism to ensure and document that matters relating to work health and safety are passed on the subsequent shift. In practice, this is done by ensuring that relevant information is included in the pre-shift instructions to the oncoming shift and is documented on the ‘shift instructions’ provided to the oncoming shift. It is more appropriate that (d) be “evidence is retained that demonstrates that the requirements of (c) have been met

29 (2) (d)	Operation of belt conveyors – what definition of competent person are we to use for inspecting a conveyor, ie; mechanical tradesperson, electrician, plant operator, etc. Also once every 8 hours is not practicable for sites that operate using 12 hour shifts and suggest inspections should occur once per shift, whether that is every 8, 10, or 12 hours. Also request that requirement does not apply to surface conveyors in metalliferous mines as they have a low risk and level of consequence. Although inspections are regularly carried out as part of normal operations, this requirement adds a level of control and documentation that is not commensurate with the risk and need not be legislated.
31	Requirements for monitoring Seismic activity should only be required after the Safety Management Plan has identified Seismic activity is a significant risk after conducting a Risk Assessment.
33 (2) (h)	Flexible Reeling or Trailing Cable should be a ‘defined term’ for the purposes of these regulations. Also of the same for mobile or transportable equipment. There are different definitions for each term in common standards such as AS3000, 3007, 4871, 2081, etc.
33 (2) (i)	Portable electrical equipment needs to be defined for the purposes of these regulations as different definitions for this term are referenced in common standards such as AS3000, 3007, 4871, etc.
33 (2) (l) (i)	This requirement to provide earth fault limitation on all circuits within an underground mine is onerous for a Metalliferous site. Earth fault limitation is provided at all main transformers (11kV to 1000V) but the smaller transformers used for lighting and control have never had this requirement. In context, at Tritton Mines, it would require retrofitting 78 transformers with NER’s (neutral earthing resistors) at a cost of \$351,000 for no significant change to operational risk. This unnecessary impost on the operation is unwarranted.
33 (2) (l) (ii)	Guidance is required on how far sites must go to ensure that the most likely type of electrical fault is a low energy earth fault. Need to propose a level of protection.
33 (2) (o)	It is assumed that primary and secondary upstream earth leakage protection is sufficient to meet this clause. Currently it is not feasible to provide earth leakage on outlets that are bigger than 32A. Also it would be expected that this would not be required for extra low voltage control circuits in metalliferous mining operations. Clarification is required to confirm if this is the intent of the Regulation
40 (1)	The current wording can put a mine operator in contravention of the Regulations even if the mine operator is not exposing any person to the defined limit. The clause should be specific and state that “The mine operator of a mine must ensure that no person at the mine is exposed to 8-hour time-weighted average atmospheric concentrations of airborne dust that exceeds:”
52	Guidance is required as to what is ‘effective’ and ‘throughout’. There is no system that will reliably provide two-way communication to all areas in most mines. Stench gas is used as a method of informing all persons underground of an emergency by virtue of reaching all ventilated areas (and hence all areas where a person may be). Radio communication is generally available to the majority of workplaces but there are areas where it may not be effective or times when it is not available and reliable communication between UG and surface is provided via fixed phone systems. It is expected that provided there are phones available in appropriate locations and a stench gas system in place that this would satisfy the intent of the clause from a ‘communication’ standpoint. This is not to say that ‘normal operations’ would necessarily be possible if there was no radio communication where, for instance, radio communication between trucks is required for safe haulage or to coordinate a task, but



	this would be an operational issue governed by the need to assess risk and implement appropriate controls.
54 (1)	Exhaust emissions and fuel standards – The limits listed in this clause for Carbon Monoxide and Nitrogen Oxides should be removed and replaced with the engine shall be maintained with the limits being as low as reasonable practicable for metalliferous mines.
56 (c )	Air quality - personal exposure level of elemental carbon (EC) shall be mentioned in the regulations as advised in MDG29.
58 (5)	Clause 58 (5) sub-paragraphs (ii) and (iv) are onerous and unnecessary in underground metalliferous mines. Sub-paragraph (ii) requires notification of the statutory ventilation officer even in the event of minor operational changes when there is no appreciable risk, for instance when a secondary fan to a development heading is restarted. Equally, sub-paragraph (iv) requires a written report to be prepared in response to normal operational processes. This level of control and documentation may be required in a coal environment but adds no value in an underground metalliferous environment. Recommend that Sub-clause (5) be restricted to UG coal mines or sub-paragraphs (ii) and (iv) be deleted
62	Guidance is required regarding what constitutes a ‘significant’ change to ventilation. Also, the wording is flawed in that operational changes are often made that may change to the risk profile, for instance advancing decline ventilation, but do not make the risk unreasonable. The current wording implies that all changes maintain or reduce risk and this is not practicable in a changing mining environment. Recommend that the clause deletes from “and the modelling” onwards or wording be changed to “can be made without <i>unduly</i> increasing the risk”. Current wording can put a mine operator in contravention of the regulations even if all ventilation parameters are met.
60 (2) d	Guidance is required regarding the definition and the intent of this clause. In particular, uncontrolled re-circulation of air through auxiliary fans. The expectation is where recirculation occurs, and is expected in the planning and installation of the auxiliary fan, the air quality at the outlet meets required standard then this “re-circulation” would be deemed “controlled” and acceptable.
60 (2) g	Ventilation fans are switched on and off regularly as required by many underground workers based on specific instructions from the supervisor, in response to changing work areas and on the basis of overall operating conditions. As per comments in relation to 58 (5), general ‘operational’ changes to ventilation are low risk in a UG metalliferous mine and a highly formalised process of approval and documentation is onerous and inappropriate in this environment. What constitutes an ‘authorised person’?
65 (3)	Monthly review of ventilation plan is not necessary given the level of risk at metalliferous mines. Tritton proposes remove requirement be removed for metalliferous mines or worded as below:  The mine operator of an underground mine must ensure that the ventilation plan is reviewed and revised at least annually after a significant change and at such other times as may be necessary.
87 (2) (a)	Regarding (ii) Industry practice is that there is a record of all persons underground at any given time by virtue of the Tag Board. There are also processes that determine where individuals are likely to be – shift instructions, supervisor’s instructions, notification of movement, supervisor visits etc. Without an electronic monitoring process or a ‘dispatch’ system or the like there is no written/electronic record of locations nor is it practicable to implement or maintain one. Recommended that 87 (2) (ii) be revised to “information regarding the name each person underground and as far as practicable their likely location is readily available in an emergency, and” Regarding (vi), there are many roles in underground metalliferous mines (and presumably UG coal mines) where dedicated

	<p>transport is not maintained at the workplace (e.g for a longhole production driller) and the response to a UG incident is to walk to a refuge chamber. Clarification is required to ensure that this is not in contravention of the proposed regulations.</p> <p>Regarding (vii), this is not an appropriate requirement for an UG Metalliferous mine and the clause should read “underground coal mine”</p>
93	Review – Recommend that the review period be aligned with that for the principle hazard/control plans. Change from yearly to 3 yearly
94	Training of workers on emergency plan, risk based practicable system should be enough.
95 (4)	95 (4) (c) is not applicable to UG Metal mines and the subparagraph should be restricted to UG coal. It is not practicable to provide vehicle access to all areas in a UG metal mine. This sub-paragraph should be deleted or restricted to UG coal mines. Alternately state “where reasonably practicable, be suitable for use by a vehicle”
99 (3) a-b	This clause is onerous and poses an unacceptable cost to the Operator, Tritton recommendations are; training 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 bi-annually after that.
101	This clause appears to mix ‘all mines’ requirements with the needs of coal mine. Currently, the Tritton site, meets all of the requirements of section (a) of this clause. The site also meets the first two parts of section b. i.e. there are contactable persons on surface and a process by which that person can/will initiate the emergency plan. It is not however practicable to guarantee a person on the surface to restore power, nor is this a critical requirement in a decline access metalliferous mine. Loss of power activates a controlled response that does not rely on immediate restoration of power and the mine can be safely evacuated without power. Loss of power in a metalliferous mine does not generally lead to the same issues e.g. build-up of explosive atmosphere that it does in coal mines. This clause can however be met if “as necessary” recognises that immediate restoration of power is not necessary in specific cases and/or ‘on surface’ does not necessarily mean ‘on the surface at the mine’, i.e. that ‘call-out’ of a competent person meets the requirements of this clause based on assessed risk.
103 (3)	Duty to provide information, training and instruction - Guidance is re required regarding what level of training and what constitutes competent regarding basic risk management techniques. Tritton provide workers with Risk Management awareness training through inductions, tool box meetings etc. Also further follow-up/assessment by their supervisors on a daily basis. Any requirement for a ‘national unit of competency’ in risk assessment for all employees is onerous and will cause unwarranted impost on the operation. Note however that supervisors and key roles are expected to undertake comprehensive training in this area.
121 (4) (c)	Guidance is required regarding what constitutes an “electrical installation”. Expectation is that this should only apply to HV installations in the case of metalliferous mines, if not all mines.
127 (2)	Duties to notify regulator of certain incidents: – This clause is not consistent with the guidance note (GNM-002) on the Mine Notification of Incident Form with some reporting criteria more stringent. The current reporting protocol is practicable and effective; it is recommended that clause be modified to reflect the current reporting standards.
127 (4) (e)	The burial of machinery such that it cannot be recovered under its own tractive effort, except remote loaders in stopes,
127 (4) (j)	Misfires should be recorded on site in a Misfire Record Book.



150 to 156	Licensed Activities - The sampling or analysing of diesel engine exhaust is a task that can be capably carried out by a trained and competent person and it is unclear why an onerous and costly provision is being proposed in a UG metalliferous environment. Recommend that 150 (a) be deleted or restricted to coal mines.
Part 12, clause 166 onward	This Part appears specific to coal but that is not clearly specified in the Part clause. Tritton proposes that this be removed for underground metalliferous mines as a dangerous incident
182	Exemptions – This clause ceases to have effect 12 months after commencement of this clause implying that there will be no exemption from any provisions of the Regulations, even if they are inappropriate to a particular operation or set of circumstances.. 182 (4) should be deleted. Any restriction regarding limitation of the exemption period can be included in the ‘conditions’ referenced in (1) and (3).
Schedule 2 (3) (3) (p)	Electrical Engineering Control Plan – Suggest that this be clarified so that it mentions versioning and modification of SCADA and PLC systems specifically. As this clause is currently written it could be interpreted that control of IT network security also belongs under the electrical control plan. This is currently undertaken by parent companies IT departments, with little to no input from the individual sites.
Schedule 3	Part 1 – 2 (2) waiting period for the activity 3 months is reduced to 7 days
	Part 3 (2) waiting period for energised electrical equipment is reduced to 24 hours. It is unclear why specific waiting periods are imposed on a number of activities (e.g. working on energised equipment and/or why some waiting periods are so long e.g. 12 months for connecting voltage becoming greater than 12,000 volts, particularly given that no documentation is required for review. It is requested that waiting periods be removed. If ‘reasonable’ time is required by the regulators then an appropriate clause should be drafted to that effect.
Schedule 10 (3) (6)	Statutory Functions – Coal certificates of competence hold little value for metalliferous mines and they should be removed as an applicable condition to be employed as the statutory electrical engineer at any metalliferous mine. The conditions in and around a metalliferous mine, especially an underground one, are completely different to those faced by either open cut, or underground coal mines. If the wording of Section (a) is to be changed from to design and review, to control and manage, similar to the coal positions, should not the position description be changed from Electrical Engineer, to either Qualified Electrical Engineer, or Electrical Engineering Manager, to bring the position into line with the coal counterparts.