

Compliance priority report

Implementation of the Work Health and Safety (Mines and Petroleum Sites) Regulation 2022

Metalliferous and extractives mines and petroleum sites

January 2023 to April 2023



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More information

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Executive summary

A crucial part of the NSW Resources Regulator’s Incident prevention strategy involves compliance priority programs for mines and petroleum sites. This involves proactively assessing a topic that is an emerging risk across the industry, predominantly determined from incident data or other evolving industry trends. Although these topics may also be contained within the Regulator’s planned inspection programs, the aim of compliance priority programs is to gather further information and knowledge about how the industry is managing and controlling an issue that may not be related to a specific principal hazard.

This particular program was initiated in response to how operators of metalliferous and extractives mines and petroleum sites were responding to the updated Work Health and Safety (Mines and Petroleum Sites) Regulation 2022.

The updated Regulation replaced the Work Health and Safety (Mines and Petroleum Sites) Regulation 2014, which was repealed on 1 September 2022.

This report summarises the assessment findings from the compliance priority program which targeted mine operator’s implementation of the updated legislation between January 2023 and April 2023:

- 21 metalliferous mines
- 21 extractive mines
- 2 petroleum sites

Assessment criteria

Several key elements (referred to as criteria) were assessed as part of this program and included:

Table 1. Compliance priority program criteria

Criteria number	Criteria
1	Has the mine reviewed site safety management systems with consideration for the updated WHS (Mines and Petroleum Sites) Regulation 2022?
2	Have changes to the mines’ SMS been communicated to workers?
3	High-risk activities (Schedule 3): (Metex only) Where applicable, does the mines safety management system (SMS) reference HRA notification requirements for commissioning of winding systems or booster fans that require registration, constructing petroleum wells, or raise bore activities?
4	Sampling and analysis requirements (Section 89 and Schedule 6): (Metex) Does the mine have processes for sampling and analysis of airborne dust in accordance with Schedule 6?
5	Emergency plan testing (Section 92) Do the mines emergency plans address recommendations made by emergency service organisations?

Criteria number	Criteria
6	<p>Emergency exits (Section 99): (Metex only) Does the mines SMS capture the requirement for Underground exits to be accessible from each level at the mine? (regardless of whether stoping operations are being carried out)</p>
7	<p>Duty to notify the Resources Regulator of certain incidents (Section 124) Has the mine updated reporting arrangements for exceedances of certain airborne contaminants? Or exposure of a person to atmospheric concentrations exceeding allowable limits?</p>
8	<p>Additional matters to be considered in a principal hazard management plan for ground or strata failure (Schedule 1) Have principal hazard management plans relating to ground or strata failure been revised to include the risk of rock, coal or related pressure bursts?</p>
9	<p>Matters to be included in emergency management plans (Schedule 7) Does the mines SMS include requirements to provide personal protection equipment (PPE)?</p>
10	<p>Statutory functions of electrical engineers (Schedule 10) Has the mine defined monitoring in terms of electrical supervision? How is the site electrical engineer satisfying their statutory obligations?</p>
11	<p>Class exemptions (small mines)</p> <ul style="list-style-type: none"> • Quarry managers (section 180) • Tier-3 quarry managers (section 181) • Notification requirements for exploration (section 182)
12	<p>Exhaust emissions and fuel standards in underground mines (section 56) Does the mine have a process to ensure diesel engines located underground are regularly sampled and analysed every 6 months?</p>
13	<p>Exemptions for certain mines (Sections 178 and 180) Is the mine aware of new exemptions for quarry managers from meeting requirements for nomination?</p>
14	<p>Use of safety devices in refuge chambers (Schedule 4) Is the mine aware that oxygen candles have been removed from the list of prohibited equipment in refuge chambers?</p>

Findings

Overall, the findings were:

- 44 site assessments reviewed for this report
- 616 individual findings
- 34 notices issued under the program

The overall assessment compliance % rating (refer Figure 1) for the 14 assessed criteria range from:

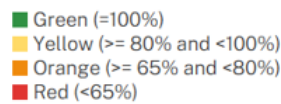
- Criteria 1 and 2 findings were assessed at 72% compliance (lowest compliance finding)
- Criteria 6, 12, 13 and 14 findings were assessed at 100% compliance (highest compliance finding)

Three assessed criteria questions assessed rating in the ‘orange colour category’ between 65% and 80% compliance, were:

- Criteria 1: Has the mine reviewed site safety management systems with consideration for the updated WHS (Mines and Petroleum Sites) Regulation 2022 assessed at 72% compliance
- Criteria 2: Have changes to the mines SMS been communicated to workers risks assessed at 72% compliance
- Criteria 3: High-risk activities (Schedule 3): (Metex only) Where applicable, does the mine’s safety management system (SMS) reference HRA notification requirements for commissioning of winding systems or booster fans that require registration, constructing petroleum wells, or raise bore activities assessed at 79% compliance.

The assessment compliance % rating for each assessed criteria is summarised in Figure 1:

Figure 1. Summary assessment findings overall results by element



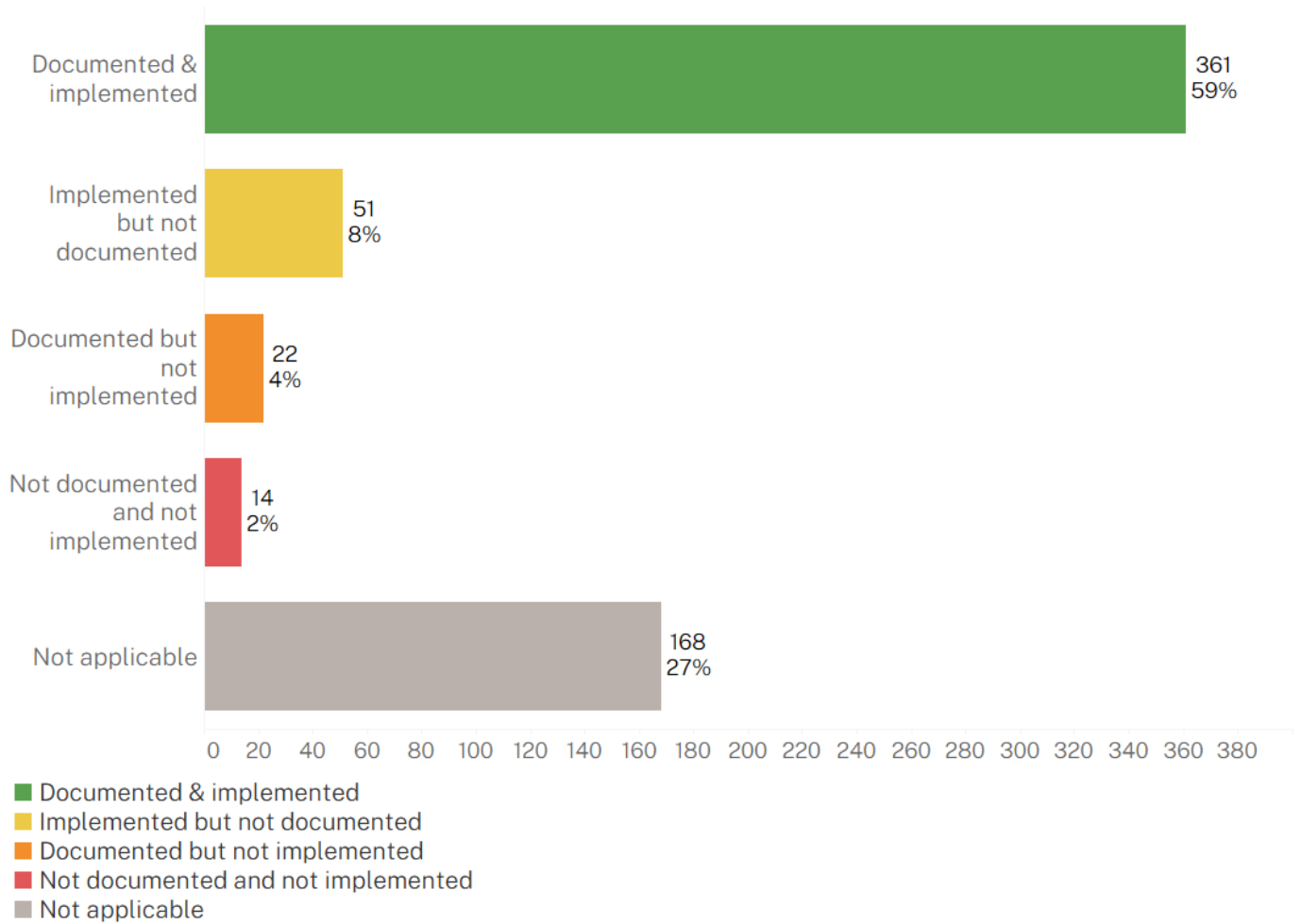
Assessment compliance % rating colour code =

Legislation gap analysis	01	Has the mine reviewed site Safety Management systems with consideration for the updated WHS (Mines and Petroleum Sites) Regulation 2022?	72%
	02	Have changes to the mines SMS been communicated to workers?	72%
	03	High-risk activities (Schedule 3): (Metex only) Where applicable, does the mines Safety Management System (SMS) reference HRA notification requirements for commissioning of winding systems or booster fans that require registration, constructing petroleum wells, or raise bore activities?	79%
	04	Sampling and analysis requirements (Section 89 and Schedule 6): (Metex) Does the mine have processes for sampling and analysis of airborne dust in accordance with Schedule 6?	92%
	05	Emergency plan testing (Section 92) Do the mines emergency plans address recommendations made by emergency service organisations?	89%
	06	Emergency exits (Section 99): (metex) Does the mines SMS capture the requirement for Underground exits to be accessible from each level at the mine? (regardless of whether coal extraction or stoping operations are being carried out)	100%
	07	Duty to notify the Resources Regulator of certain incidents (Section 124) Has the mine updated reporting arrangements for exceedances of certain airborne contaminants? Or exposure of a person to atmospheric concentrations exceeding allowable limits?	88%
	08	Additional matters to be considered in a principal hazard management plan for ground or strata failure (Schedule 1) Have principal hazard management plans relating to ground or strata failure been revised to include the risk of rock, coal or related pressure bursts?	86%
	09	Matters to be included in emergency management plans (Schedule 7) Does the mines SMS include requirements to provide personal protection equipment (PPE)?	93%
	10	Statutory functions of electrical engineers (Schedule 10) Has the mine defined monitoring in terms of electrical supervision? How is the site electrical engineer satisfying their statutory obligations?	83%
	11	Class exemptions (small mines) • Quarry managers (section 180) • Tier-3 quarry managers (section 181) • Notification requirements for exploration (section 182)	95%
	12	Exhaust emissions and fuel standards in underground mines (section 56) Does the mine have a process to ensure diesel engines located underground are regularly sampled and analysed every 6 months?	100%
	13	Exemptions for certain mines (Sections 178 and 180) Is the mine aware of new Exemptions for quarry managers from meeting requirements for nomination?	100%
	14	Use of safety devices in refuge chambers (Schedule 4) Is the mine aware that oxygen candles have been removed from the list of prohibited equipment in refuge chambers.	100%

The overall analysis of assessment findings ratings were found to be documented and implemented assessed at 59%. Implemented but not documented assessed at 8%. The lowest category not documented and not implemented was found to be 14% (Figure 2).

The analysis of the assessed criteria documentation and implementation is summarised in Figure 2:

Figure 2. Overall assessment findings ratings



Notices issued

Of the 44 sites assessed under the inspection program, 30 separate mines were given 34 notices relating to compliance with new legislation, while some mines were given notices in relation to other matters.

The notices issued for compliance with new legislation were examined in detail and Table 3 below lists the notices issued by type.

Table 3: Notices issued for the planned inspection program – compliance with new legislation

NOTICE TYPE	TOTAL ISSUED	NUMBER OF MINES
s.23 notice of concerns	26	26
s.191 improvement notice	8	6
Total	34	30

Of the combined **34** notices issued, there were some common themes that were apparent throughout the program plan.

- Updating safety management plans to align with new legislation.
- Communication of new legislation to mine workers.
- Notification of high-risk activities to align with new legislation.
- Updating statutory functions to align with new legislation.
- Updating dust limitations and monitoring requirements to align with new legislation.
- Updating emergency management plans to align with new legislation.

Recommendations

Based on the findings outlined in the report identifying the three lowest assessment compliance ratings for each assessed criteria for psychosocial risks. Mine operators should consider the following recommendations:

- Review what actions the mine has undertaken in relation to health and safety management systems complying with the updated legislation requirements,
- Review the communication to mine workers of changes made to the health and safety management systems updated for new legislation requirements,
- Review high-risk activity notification requirements in health and safety management systems compliance with updated legislation requirements.

Further information

For more information on safety assessment programs, the findings outlined in this report, or other mine safety information, please contact the NSW Resources Regulator:

CONTACT TYPE	CONTACT DETAILS
Email	cau@regional.nsw.gov.au
Incident reporting	To report an incident or injury call 1300 814 609 or log in to the Regulator Portal
Website	www.resourcesregulator.nsw.gov.au
Address	NSW Resources Regulator 516 High Street Maitland NSW 2320

Appendix A – Assessment criteria rating

Each assessed criteria is rated from 1 through 4 based on evidence supporting the expected control supports identified at the mine site:

Evidence supporting expected control supports

Expected control supports	Rating	Evidence supporting rating / comments				
	<table border="1"> <tr> <td>4</td> <td>3</td> </tr> <tr> <td>2</td> <td>1</td> </tr> </table>	4	3	2	1	
4	3					
2	1					

Assessment findings results are calculated based on the total points allocated to the assessed ratings as a percentage of the maximum possible points for each criteria group, and any findings rated as ‘Not applicable’ were excluded from the calculation.

Criteria assessed ratings and points

Assessed as	Rating	Points
Documented & implemented	4	4
Implemented but not documented	3	2
Documented but not implemented	2	1
Not documented and not implemented	1	0
Not applicable		

Findings results (points) with colours assigned as follows:

- Green (=100%)
- Yellow (>= 80% and <100%)
- Orange (>= 65% and <80%)
- Red (<65%)