

## **Compliance priority report**

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

Small mines

**April 2023 to August 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 small mine 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The updated Regulation replaced the Work Health and Safety (Mines and Petroleum Sites) Regulation 2014, which was repealed on 1 September 2022.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 April 2023 and August 2023:

- 35 extractives mine sites
- 1 metalliferous mine site

## 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 type	Criteria number	Criteria
Implementation	1	Has the mine reviewed site safety management systems with consideration for the updated WHS (Mines and Petroleum Sites) Regulation 2022?
Implementation	2	Have changes to the mines’ SMS been communicated to workers?
Implementation	5	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?
Legislation	6	Class exemptions (small mines) <ul style="list-style-type: none"> <li>• Quarry managers (section 180)</li> <li>• Tier-3 quarry managers (section 181)</li> <li>• Notification requirements for exploration (section 182)</li> </ul>
Legislation	7	Exemptions for certain mines (Sections 178 and 180) Is the mine aware of new exemptions for quarry managers from meeting requirements for nomination?

Criteria type	Criteria number	Criteria
Operational control	3	Sampling and analysis requirements (Section 89 and Schedule 6): (Small Mines) Does the mine have processes for sampling and analysis of airborne dust in accordance with Schedule 6?
Reporting	4	Duty to notify the Resources Regulator of certain incidents (Section 124) Is the quarry manager aware of reporting requirements? Does the quarry manager know what section numbers to quote when reporting (new section numbers)?

## Findings

Overall, the findings were:

- 36 small mine site assessments reviewed for this report
- 252 individual findings
- 23 compliance notices were issued to 21 mines during the program.

The overall assessment compliance rating was 81% for the 7 assessed criteria (refer to Figure 1) ranging from:

- Criteria No. 2 findings assessed at 51% compliance (lowest compliance finding)

through to:

- Criteria No's 6 & 7 findings assessed at 100% compliance (highest compliance finding).

Criteria No. 1 was assessed in the 'orange colour category' rating between 65% and 80% compliance:

- Criteria 1: Has the mine reviewed site safety management systems with consideration for the updated WHS (Mines and Petroleum Sites) Regulation 2022 assessed at 75% compliance.

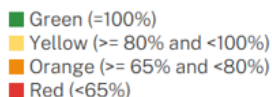
Criteria No. 2 was assessed in the 'red colour category' rating less than 65% compliance:

- Criteria 2: Have changes to the mines' SMS been communicated to workers assessed at 51% compliance.

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

Figure 1 - Summary assessment findings overall results by criteria

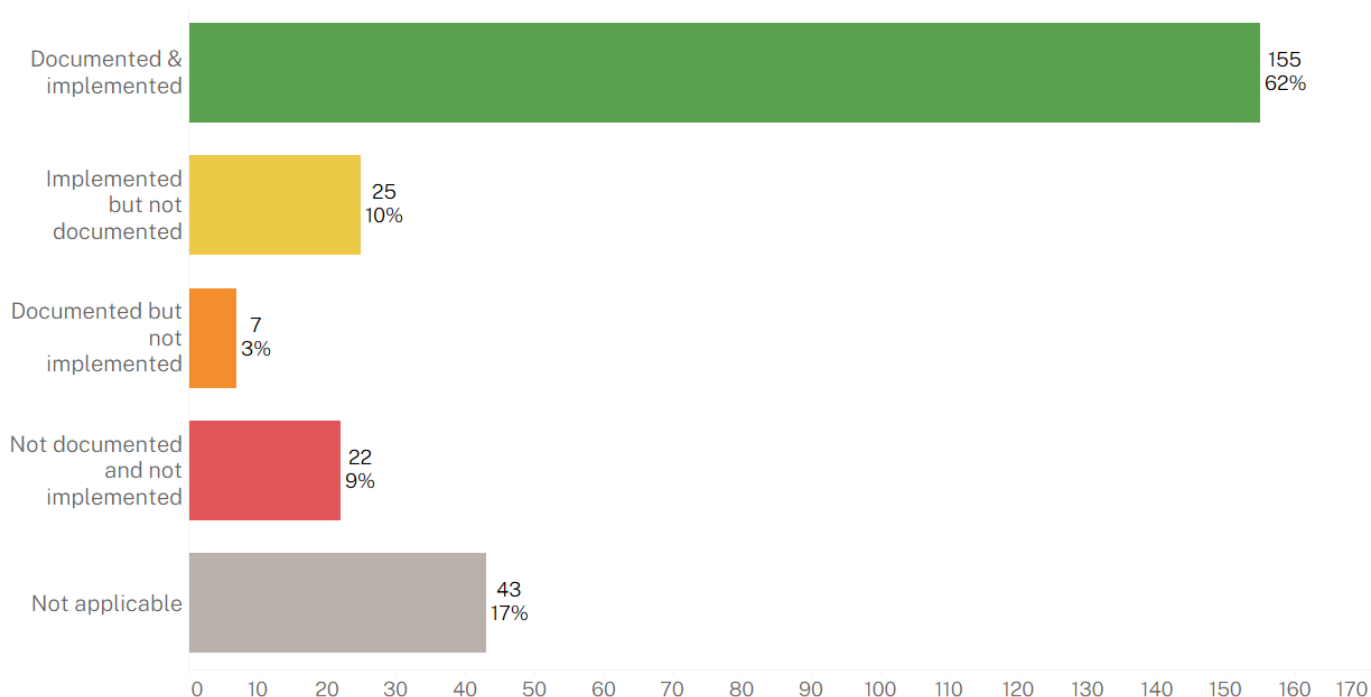
Implementation	Q1	Has the mine reviewed site Safety Management systems with consideration for the updated WHS (Mines and Petroleum Sites) Regulation 2022?	75%
	Q2	Have changes to the mines SMS been communicated to workers?	51%
	Q5	Statutory functions of electrical engineers (Schedule 10) Has the mine defined monitoring in terms of electrical supervision? How is the site electrical engineer satisfying their statutory obligations?	91%
Legislation	Q6	Class exemptions (small mines) • Quarry managers (section 180) • Tier-3 quarry managers (section 181) • Notification requirements for exploration (section 182)	100%
	Q7	Exemptions for certain mines (Sections 178 and 180) Is the mine aware of new Exemptions for quarry managers from meeting requirements for nomination?	100%
Operational control	Q3	Sampling and analysis requirements (Section 89 and Schedule 6): (Small Mines) Does the mine have processes for sampling and analysis of airborne dust in accordance with Schedule 6?	82%
Reporting	Q4	Duty to notify the Resources Regulator of certain incidents (Section 124) Is the Quarry Manager aware of reporting requirements? Does the Quarry Manager know what section numbers to quote when reporting (new section numbers) ?	90%
Grand Total			81%



The overall analysis of assessment findings ratings were found to be documented and implemented assessed at 62%. Implemented but not documented assessed at 25%. The lowest category not documented and not implemented was found to be 9% (refer to 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 **36** sites assessed under the inspection program, **21** separate mines were given **23** compliance 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 2 below lists the notices issued by type.

Table 2: Notices issued for the planned inspection program – compliance with new legislation

NOTICE TYPE	TOTAL ISSUED	NUMBER OF MINES
s.23 notice of concerns	16	16
s.191 improvement notice	7	6
<b>Total</b>	<b>23</b>	<b>21</b>

**Note: some mines were issued multiple notices**

Of the combined **23** notices issued, there were some common themes that were apparent throughout the program plan.

- Updating safety management plans to align with new legislation.
- Communication and training of new legislation to mine workers.
- Updating statutory functions of electrical engineers to align with new legislation.
- Updating dust limitations and monitoring requirements to align with new legislation.
- Updating site management knowledge & awareness of reporting requirements to the Regulator.

## Recommendations

Based on the findings outlined in the report identifying five assessment compliance ratings (with findings less than 92% compliance) for each assessed criteria for the implementation of Work Health and Safety (Mines and Petroleum Sites) Regulation 2022 at small mines.

Small 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 and training provided to mine workers of changes made to mine health and safety management systems updated for new legislation requirements,
- Review electrical engineering supervision and statutory obligations meets with updated legislation requirements.
- Review the process of dust sampling and analysis in mine health and safety management systems is compliant with updated legislation requirements.
- Review site management awareness of the statutory duty to report certain incidents to the Regulator 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	<a href="mailto:cau@regional.nsw.gov.au">cau@regional.nsw.gov.au</a>
Incident reporting	To report an incident or injury call 1300 814 609 or log in to the <a href="#">Regulator Portal</a>
Website	<a href="http://www.resourcesregulator.nsw.gov.au">www.resourcesregulator.nsw.gov.au</a>
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%)