



PUBLIC CONSULTATION FORM

Discussion Paper WHS (MPS) Laws amendments

April 2021

WHS (MPS) Laws amendments

The NSW Resources Regulator is seeking submissions on the **Discussion paper** on proposed amendments to the *Work Health and Safety Mines and Petroleum Sites Act 2013* and its Regulation.

How to make a submission

You can send questions about the reforms or the submission process to rr.feedback@planning.nsw.gov.au

To make a submission, use this form to comment on the Discussion paper on proposed amendments to the WHS (MPS) Laws and return to:

Email: rr.feedback@planning.nsw.gov.au

Post: WHS (MPS) Laws amendments
NSW Resources Regulator
Regulatory Programs
PO Box 344 Hunter Regional Mail Centre 2310 NSW

By the closing date: 17 May 2021

As part of our public consultation processes, we will publish copies of all submissions on our website at the conclusion of the consultation period. Publishing all public submissions received will ensure transparency around the feedback. As a general rule, all public submissions will be published in full (excluding contact details). In exceptional circumstances, we may consider withholding the identity of a submitter when publishing their submission (i.e. if there are legitimate concerns around personal security/safety). Please advise us if you want your identify withheld, including the reasons. Your submission will be managed and retained in accordance with the *State Records Act 1998* and the *Government Information (Public Access) Act 2009*.

Feedback Form

* Required field

Contact details

Name*		[REDACTED]			
Email address*		[REDACTED]			
Street address		[REDACTED]			
Suburb	Woonona	State	NSW	Postcode	2517
Postal address (if different from above)					
Suburb		State		Postcode	

Organisation

Are you an individual representing at organisation?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
If yes, please provide the organisation's name:	Coal Services Pty Limited/Mines Rescue Pty Ltd

Privacy

<input checked="" type="checkbox"/> * In making this submission I acknowledge the submission will be published by the Resources Regulator, including my identity.	
(If applicable) I provide the following reason/s to request my identity be excluded when the submission is published:	

Feedback

DO YOU HAVE ANY COMMENTS ON THE QUESTIONS BELOW?	
(i)	Should there be two types of investigations contained in the WHS (MPS) Act?
(ii)	Should persons named in causal investigation reports provided to the Resources Regulator be protected from having that information used as evidence against them in the event that enforcement action is taken?
(iii)	Should the function of mine SHRs be expanded beyond the HSR functions under the WHS Act and previous mine safety legislation to enable them to participate in investigations? If so, are there any limitations that may be warranted on its exercise?
(iv)	Do you have any concerns regarding the adoption of the amendments for appointment of industry SHRs by the Minister?
(v)	Do you agree with extending industry SHRs to mines other than coal mines?
(vi)	Should the WHS (MPS) Act be amended to include provisions equivalent to sections 146 and 148 of the WHS Act?
(vii)	Should the WHS (MPS) Act be amended to amend the purpose statement for

<p>Boards of Inquiry to include ‘contributing factors’, and to explicitly allow for high potential emerging and systemic issues and the making of potential findings and recommendations to reduce the likelihood of future accidents and incidents?</p>	
<p>(viii) Should the WHS (MPS) Regulation be amended to clarify that the MPCB can appoint a person as an assessor?</p>	
<p>(ix) Is clarification required in relation to rock and coal bursts and related pressure bursts being a principal mining hazard?</p>	
<p>(x) Are there any elements of the Global Industry Standards on Tailings Management that should be prescribed in the WHS (MPS) Regulation?</p>	
<p>(xi) Should Schedule 6 of the WHS (MPS) Regulation be amended to include sampling over 80% of a shift, require all respirable dust samples tested for silica, and include more detail on sampling of the drill and blast area, as well as areas involving mobile equipment and maintenance, coal handling preparation and mobile crushing plant?</p>	<p>As outlined in our initial submission of April 2020, Coal Services strongly supports all proposed amendment's outlined in section (xi).</p> <p>The change to include requirements to sample over 80% of shift length would assist in ensuring exposure results are representative of the activities worked on that shift and more accurately capture any operator task rotation.</p> <p>The change to require analysis of silica for all respirable dust samples would assist in providing a more accurate assessment of WES compliance and long-term exposure risk profiles.</p> <p>The change to include more detail on sampling of drill and blast area, mobile equipment, maintenance, coal handling preparation and mobile crushing plant</p>

	workers is required to ensure surface coal mine workers dust exposure levels and risk is adequately assessed. Recent studies referenced in Coal Services initial submission on surface worker silica exposure risk and reported coal mine dust lung disease cases support the adoption of more detailed minimum dust monitoring requirements for surface coal mines. This recommendation is also supported by the NSW Resources Regulator table of dust disease notifications which includes multiple NSW surface mine workers with identified mixed dust and coal dust pneumoconiosis in the period December 2016 - May 2020.
(xii) Should the WHS (MPS) Regulation be amended to require sampling and analysis of respirable quartz at non-coal mines, similar to the requirements in clause 86 and Schedule 6?	Coal Services supports amendment (xii). Coal Services strongly believes that prescribed dust monitoring completed by an independent party is a key component in the ongoing protection of NSW coal mine workers. Expanding this requirement to non-coal mines would afford non-coal workers the same protection through a minimum standard of required worker exposure monitoring.
(xiii) Should the WHS (MPS) Regulation be amended to provide certain exemptions for small quarries?	
(xiv) The Resources Regulator is currently addressing this issue of clarification of safety devices like oxygen candles in refuge chambers through guidance. Should the Resources Regulator’s position be made explicit in the WHS (MPS) Regulation?	Coal Services supports the clarification of the use of safety devices such as oxygen candles.
(xv) Should the WHS (MPS) Regulation be amended to include a ‘note’ under clauses 5(2) and 5(3) of Schedule 4 to refer the reader to the defined terms of ‘underground coal mine’ and	

	‘underground mine’ in clause 3 of the WHS (MPS) Regulation?	
(xvi)	Should emergency sealing in clause 68 of the WHS (MPS) Regulation make provision for re-entry and, if so, include an airlock?	Coal Services/Mines Rescue supports the inclusion of a re-entry provision in emergency sealing arrangements including the use of an airlock to allow Mines Rescue Brigade teams faster access to the mine if re-entry required.
(xvii)	Should the emergency plan include more detail in relation to testing of, and training in, the emergency plan and mine rescue? What additional detail should be included?	Coal Services/Mines Rescue supports the inclusion of more detail in the testing of the emergency plan. NSW Mines Rescue are routinely involved in the testing of emergency plans and we have experienced a large variance in how this testing is carried out. Detail to include number of workforce to be included in testing of the emergency plan on an annual basis and the level of exercise to be carried out on annual basis.
(xviii)	Should the WHS (MPS) Regulation be amended to include a requirement for mine operators to display aspects of the escape and rescue plan, including exits, refuges, firefighting equipment, communications and oxygen stations and to ensure mine workers have a reasonable opportunity to utilise the exits during periodic training?	NSW Mines Rescue supports the requirement for mine operators to display aspects of the escape and rescue plan and for mine workers to be provided with reasonable opportunities to utilise these exits during training.
(xix)	Should the WHS (MPS) Regulation be amended so that an automatic update provision (similar to that under clause 78) is applied to all references to standards in the Regulation?	
(xx)	Is it appropriate to continue to refer to standards or should the relevant parts be prescribed within the WHS (MPS) Regulation?	

(xxi) Should the WHS (MPS) Regulation be amended to enable a professional engineering demonstration of an alternate means of compliance that entails a level of risk equivalent to, or better than, complying with a prescribed standard?	
(xxii) Is the Resources Regulator’s <i>Innovation policy</i> sufficient for enabling consideration of innovations prevented by legislation or technical standards?	
(xxiii) Do you support the proposed amendments to the explosion-protection provisions in clauses 78(2) and 78(3) of the WHS (MPS) Regulation to make it explicit that electrical plant used in an underground coal mine must comply with the requirements of the certificate of conformity or Departmental approval?	
(xxiv) Do you support the proposal to amend clause 80 of the WHS (MPS) Regulation to incorporate the provisions outlined in the class exemption titled <i>Work Health and Safety (Mines and Petroleum Sites) Exemption (Use of Cables in Hazardous Zones) 2020</i> as published in the NSW Government Gazette No 171 of 7 August 2020 ?	
(xxv) Should the wording in clause 93 of the WHS (MPS) Regulation be amended to be consistent with clause 89 to ensure that consultation with emergency	NSW Mines Rescue support that the wording in Clause 93 be amended to be consistent with Clause 89 and that consultation with emergency services be included.

<p>services is included when the emergency plans are tested?</p>	
<p>(xxvi) Do you agree with amending 128(5) of the WHS (MPS) Regulation to make exceedances of diesel particulate matter and substances and mixtures specified in clause 50 of the WHS Regulation a high potential incident?</p>	<p>Coal Services supports the amendment to make diesel particulate matter exceedances a high potential incident. This change would assist the NSW Regulator to help support industry to continue the long-term trend of reducing worker exposure levels to diesel particulate matter.</p> <p>Coal Services suggest further consideration is made prior to incorporating exceedances of all substances and mixtures specified in clause 50 of the WHS Regulation as high potential incidents. Consideration should be given to the likely frequency of notifications and required regulatory actions and resource prioritisation. Consideration should also be given to any potential decrease in worker monitoring frequencies of non-prescribed contaminants by mine sites to reduce the likelihood of exceedance related high potential incident notifications. Coal Services would welcome the opportunity to be involved and contribute to further discussions around amendment (xxvi).</p>
<p>(xxvii) Should Schedule 3 of the WHS (MPS) Regulation be amended to include raised bore activity as a high risk activity?</p>	
<p>(xxviii) Should the WHS (MPS) Regulation be amended to include a requirement that at least one person who has undertaken safety training as specified by the regulator be present at an opal mine when mining activity is taking place?</p>	

Submitting the form

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