

Draft Work Health and Safety (Mines) Regulation

Public comment template

Please send submissions by email to 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)

Name: Simon Coleman

Organisation (if applicable): Rio Tinto Coal Australia

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.

2.1	<p><i>What impact will one regulation with clearly defined provisions for separate mining sectors have on understanding and implementing the new WHS (Mines) legislation?</i></p> <p>One regulation with clearly defined provisions for the all mining sectors will assist in reducing confusion, and support a standardised implementation.</p>
2.4	<p><i>What impact will the definition of 'mine', 'mining operations', 'mining workplace' and 'underground mine' have in helping you understand the application of the new WHS (Mines) legislation?</i></p>



	<p>The definitions for ‘mine’, ‘mine operations’, ‘mining workplace’, and ‘underground mine’ do not have an impact on current understanding, but do clarify that exploration activities as mining activities.</p> <p><i>What activities do you believe should not be captured by the application of the new WHS (Mines) legislation?</i> Environmental surveying and land management work (grazing, weed spraying, grass slashing, fencing work) which occurs on ‘mine’ land but is not considered part of ‘mining operations’ or mining activities.</p> <p><i>What are stakeholders’ views on the list of certain provisions that won’t apply to non-mechanical exploration?</i></p> <p>The list of exemptions for non mechanical exploration are appropriate.</p>
3.3	<p><i>What are stakeholders’ views on the flexibility that the provisions provide with respect to specifying the detail required in the SMS?</i></p> <p>The ability to develop the SMS to suit the operational risk and address the “relevant substantive matters” in the Regulation is appropriate. Combining of PMHMPs and PCPs is entirely appropriate and will reduce duplication.</p>
3.4	<p><i>What are stakeholders’ views on the inclusion of subsidence as a principal mining hazard?</i></p> <p>Rio Tinto Coal currently operates only open cut mines in NSW. Rio Tinto Coal Australia is considering future underground mines in NSW. Qld legislation does not refer to subsidence. Recommend this should be based on risk as opposed to inclusion as a principle mining hazard. Consider as a Code of Practice.</p>
3.5	<p><i>What are stakeholders’ views on the matters required to be addressed in each of the principal control plans?</i></p> <p>Principal Control Plan matters are appropriate.</p>
3.6	<p><i>What are stakeholders’ views on the arrangements for contractor management at a mine?</i></p> <p>Contractor Management Plan requirements are consistent with existing requirements and practices.</p>
3.7	<p><i>Are there any specific control measures that are not required in the regulation (for example, where the matter could be addressed in a code of practice which could set out what is reasonably practicable to manage those risks)?</i></p> <p>As per 3.3 above, the ability to combine PMHMPs and PCP will the matters listed already covered. Communication arrangements, Mobile Plant, Conveyor belts, Explosives, & Electrical controls will be covered already by PMHMPs.</p>
3.7.1	<p><i>What are stakeholders’ views on retaining the existing exposure standard of 2.5mg of respirable dust per cubic metre of air?</i></p> <p>Comfortable that this retains the existing standard requirements.</p>



What are stakeholders' views on the inclusion of NCDIs 16.3 to 16.7, 16.9 to 16.14 and 16.15 (8) and (9) in the WHS (Mines) Regulation, as opposed to inclusion in a code of practice?

16.3 Reasonable. Already contained in Site Surface Transport Management Plan

16.4 In general – very specific and prescriptive. Content better suited to a Code of Practice.

(1) barriers; - no issues

(2) curvature; - This is too prescriptive, curvature of the road is a productivity issue

(3) grade; - no issues

(4) camber; - no issues

(5) guide posts; - Does this mean that guide posts are required? Visibility of road width should be covered but should not require prescriptive use of guide posts in a Regulation

(6) pavement shape; - this should not be required to be covered off on the plan as the pavement shape can take many forms and with use this shape will deform not necessarily forming safety issues

(7) safety berms, windrows and bunds; - no issues

(8) signs; - no issues

(9) surface material; - it is not appropriate to specify what the surface material of a road should be made from as this will vary depending on location and time required

(10) width; - no issues

(11) banks and steep drops adjacent to plant operating areas; - This will be covered off in safety berms, this should not have different controls than any other area

(12) the characteristics of the mine vehicles; - this should be covered off on the introduction to site verification and mechanical requirements, what other characteristics would this refer to? It is unreasonable to describe every type of equipment in the mine.

(13) the types of materials used for road construction; - same as above roads are built from material available and the time constraints the business offers, this should not be required in the plan

(14) the specific mining operations; - the type of Mining operations is not relative to the design and construction of mine roads, if all types of operations are required to be described the plan will be rather large, mining operations are covered off in operating procedures

(15) the methods for working at the mine; the methods for working is not relative to the design and construction of mine roads, if all methods of work are required to be described the plan will be rather large, mining operations are covered off in operating procedures

(16) requirements for appropriate intersection design; - no issue

(17) requirement for visibility of road edges at night including adequate lighting; this is some overlap with number 5



	<p><i>(18) the interface between vehicles and pedestrians. – this is fine.</i></p> <p>16.5 Reasonable. Already contained in Site Surface Transport Management Plan</p> <p>16.6 Reasonable. Would need to be amended in Site Surface Transport Management Plan from 3.0 to 3.5 times the width. Can be managed with a reasonable transition period (2-3 years based on pit strip turn over)</p> <p>16.7 16.5 Reasonable. Already contained in Site Surface Transport Management Plan</p> <p>16.9 Reasonable. Already contained in SMS</p> <p>16.10 Reasonable. Already contained in SMS</p> <p>16.11 Reasonable. Already contained in Site Surface Transport Management Plan/SMS</p> <p>16.12 Reasonable. Already contained in SMS</p> <p>16.13 Reasonable. Already contained in Site Surface Transport Management Plan/SMS</p> <p>16.14 Reasonable. Majority contained in Site Surface Transport Management Plan/SMS</p> <p><i>(1) the design, construction and maintenance of safety berms, windrows and bunds on roads used by the trucks;</i> <i>(2) identifying and controlling risks of the trucks over turning; - not sure what controls are looking for in this section beyond what is covered in the upper section which covers cross fall or grade.</i> <i>(3) safe dump areas and routes; and – these are constantly changing and cannot be specified</i> <i>(4) methods of working – do not have the ability to prescribe all methods of working in this plan, this is the purpose of working procedures.</i></p> <p>16.15 UGround Specific</p>
3.8	<p><i>Are there any specific control measures that are not required in the regulation (for example, where the matter could be addressed in a code of</i></p>



	<p><i>practice which could set out what is reasonably practicable to manage those risks)?</i></p> <p>RTCAs view is that these requirements should be placed in Code of Practice. Underground specific, and RTCA currently operates only open cut mines in NSW, but is considering future underground mines.</p>
3.8.2	<p><i>What are stakeholders' views on the inclusion of NCDIs 15.9 to 15.15 in the draft WHS (Mines) Regulation, as opposed to inclusion in a code of practice?</i></p> <p>RTCAs view is that these requirements should be placed in Code of Practice. Underground specific and RTCA currently operates only open cut mines in NSW, but is considering future underground mines.</p>
3.9 3.9.1 3.9.2	<p><i>Are there any specific control measures for underground coal mines that should not be required in the Regulation (for example if a code of practice is the most suitable place to set out what is reasonably practicable to manage those risks requirement)?</i></p> <p>Underground specific and RTCA currently operates only open cut mines in NSW, but is considering future underground mines.</p> <p><i>Is a transition period of 12 months appropriate for the introduction of post-incident monitoring arrangements?</i></p> <p>Underground specific and RTCA currently operates only open cut mines in NSW, but is considering future underground mines.</p> <p><i>What are stakeholders' views on the appropriateness of the 'reasonable steps' qualifier in the provisions above?</i></p> <p>RTCA considers that the inclusion of search powers in the WHS (Mines) Regulation may create an uncertainty around whether a Mine Operator is required to conduct searches (and how often such searches should be conducted) in order to comply with its obligation to take all reasonable steps to ensure that an item or substance as set out in Schedule 4 is not used in a prohibited or restricted place. A search power may also create issues in relation to the privacy of employees.</p>
3.9.3	<p><i>What are stakeholders' views on the inclusion of NCDIs 31.5 and 31.6 in the WHS (Mines) Regulation?</i></p> <p>RTCA supports the inclusion of 31.5 & 31.6 in the Regulations. Underground specific and RTCA currently operates only open cut mines in NSW, but is considering future underground mines.</p>
3.11	<p><i>Is a transition period of 12 months appropriate to enable mines to comply with the self-rescuer provisions?</i></p> <p>12 months is reasonable</p>
3.11.1	<p><i>What are stakeholders' views on the inclusion of NCDIs 27.23 and 27.24 in the WHS (Mines) Regulation, as opposed to inclusion in a code of practice?</i></p> <p>These items are already covered within the emergency management plan, and where assessed as required in the risk assessment for the</p>



	<p>emergency management plan they are provided. Code of Practice should address this.</p>
3.11.3	<p><i>What are stakeholders' views on the appropriateness of the recommended testing times for the emergency plan?</i></p> <p>CI92 refers to annually, but the discussion paper refers to 6mth internal testing? Currently exercises are conducted annually but not always involving an emergency service organisation. RTCAS view is that this a reasonable requirement to test the plan annually and involve either the Police, Fire, Ambulance, RFS, or MRS.</p> <p><i>What are stakeholders' views on the proposed additional regulatory provisions regarding emergency response identified through analysis of the Pike River Royal Commission Report?</i></p> <ul style="list-style-type: none"> • There should be no duplication or addition to emergency functions in NSW Trade & Investment without first considering existing state emergency resources and mine rescue functions/resources. • The nature and types of emergency events that would trigger specific NSW Trade & Investment powers would need to be clearly defined and consulted. • Not clear why additional powers are need to those a Mine Inspector already has to require a Mine Operator to take certain steps. • The requirement to notify the regulator when there has been “any” activation of an emergency plan (irrespective of the incident notification requirements is too general and onerous. The risk level of the event (already contained in incident notification requirements) should be maintained rather than “any”. For example – emergency plans include mine site building evacuation plans. A false fire alarm which triggers the emergency plan (evacuation of the building) would require a notification to the regulator? This is not appropriate to the risk level.
3.12	<p><i>What are stakeholders' views on the need for specific provisions requiring the display of health and safety information in a prominent place in a workplace and requirements for mine operators to take all necessary steps to draw it to the attention of workers?</i></p> <p>This is additional and does not provide any additional access to the information. CI102-105 already requires the PMHMPs, PCPs, and SMS information to be provided to workers and be “readily accessible”. This doesn’t need to be prescribed further in this detail.</p>
3.13	<p><i>What are stakeholders' views on the waiting periods for high risk activities notification?</i></p> <p>Periods are reasonable</p> <p><i>Is a transition period of nine months appropriate for the commencement of the new high risk activities notification scheme for metalliferous and extractives mines?</i></p>



	Rio Tinto Coal Australia currently only operates Coal Mines in NSW
3.14	<p><i>What are stakeholders' views on the inclusion of health assessment provisions in the draft WHS (Mines) Regulation?</i></p> <p>The duplication in NSW Coal between the Health Assessment requirements in the WHS Regulations and the Coal Industry Act/Order 41 is unnecessary, provides no additional benefit or protection to workers, and is inconsistent with the intent of harmonised legislation. RTCAs view is that health assessment and surveillance provisions should be included in the WHS Mines Regulations, and the Coal Industry Act/Order 41 requirements should be reviewed. Having two sets of different laws for health assessments in the mining industry will only create confusion. The intention of harmonised legislation is to have consistency between NSW Coal requirements and other industry sectors and jurisdictions.</p> <p><i>What are stakeholders' views on the inclusion of NCDIs 26.20 to 26.22 in the draft WHS (Mines) Regulation?</i></p> <p>Strongly oppose these inclusions. The requirement for “agreement” on drug and alcohol testing regimes is completely inconsistent with the legislation approach of consultation – consultation should require genuine consideration of the views of all workers, but must not mean reaching “agreement”. The Mine Operator/PCBU/SSE has accountability to ensure appropriate risk management and controls for fitness for work/drug & alcohol risks, and must therefore maintain the ability to determine the most appropriate controls through consultation.</p> <p>RTCA is strongly opposed to the mandating of prescribed testing methods for fitness for work/drug & alcohol. Particularly the mandated requirements for saliva testing. There is substantive research and evidence indicating that saliva testing is a less reliable testing method for common recreational drugs, and for legislation to mandate a lower level of control when a higher level of control is available, already in use, and proven, is an absurd position.</p>
3.17	Lower risk notifiable incidents should have an increased notification period, e.g. 7 days.
3.20	<p><i>Is a transition period of two years appropriate for the continuation of the mining-specific plant registration under the OHS Regulation 2001 scheme?</i></p> <p>Two year transition is seen as reasonable.</p>
3.21	<p><i>In response to the Pike River Royal Commission Report, stakeholders are asked to consider:</i></p> <ul style="list-style-type: none"> • <i>whether five-yearly (or at least regular) accredited 'refresher courses' be required for underground mine managers to ensure their ongoing competence</i> • <i>that practising certificates not be issued to individuals 'for life'</i>



	<ul style="list-style-type: none"><i>certificates of competence or practising certificates be subject to periodic audits and reviews by the regulator.</i> <p>Support alignment with Qld process for certification. Do not support periodic audits and reviews by the regulator if this increases cost to the regulator and operators. Alternative could be a CDP process or report submission at determined frequency demonstrating ongoing competence.</p>
3.21.2	<p><i>Is three years an appropriate period before a practising certificate should be renewed?</i></p> <p>3 years appears to be appropriate. Our view is it should certainly not be less than 3 years.</p> <p><i>What are stakeholders' views on whether a person who might not otherwise be an officer of the PCBU should have the duties of an officer under the WHS Act by virtue of being the site senior executive of the mine?</i></p> <p>RTCA is not supportive of the SSE as it is currently proposed. There is a lack of clarity on the functions and competency requirements for the SSE. The SSE role should not be an officer of the PCBU purely by being in the role. The existing Corporations Act definitions and requirements should apply to the Officer definition.</p> <p><i>What are stakeholders' views on the adoption of the underground mine supervisor statutory functions?</i></p> <p>Underground specific and RTCA currently operates only open cut mines in NSW, but is considering future underground mines. Supportive of aligning with Qld statutory roles to allow transferability between QLD & NSW operations for RTCA.</p> <p>Once the SSE role functions, Officer status, and competency assessment requirements are clarified, 3 years appears to be appropriate. Our view is it should certainly not be less than 3 years.</p>



As stated above, RTCA is not supportive of the SSE role as it is currently proposed. There is a lack of clarity on the functions and competency requirements for the SSE. The SSE role should not be an officer of the PCBU purely by being in the role. The existing Corporations Act definitions and requirements should apply to the Officer definition.

RTCA currently operates only open cut mines in NSW, but is considering future underground mines, and the additional underground roles would not be an immediate impact. RTCA is supportive of aligning with Qld statutory roles to allow transferability between QLD & NSW operations for RTCA.

The Regulations also specifically list Electrical and Mechanical Tradespersons as statutory roles. Whilst these roles are referred to in the Regulations, specifically listing these as a statutory role will have unintended IR implications, and they should be removed from the list. If the intent is to specify qualification requirements then this could be achieved in a “qualifications” listing.

While the Industry Check Inspector role is an existing role in current legislation, and no change is proposed by the Draft Regulations, RTCA questions the cost, value and need for this role within the Coal sector. Appropriate representation and regulatory oversight is provided via the Site Check Inspector functions and the Government Mines Inspectors. RTCAs view is that the Industry Check Inspector role is an additional cost to the industry, and only duplicates the Site Check Inspector and the Government Mines Inspectors functions. Other high risk sectors operate effectively and safely with the Site Representative and Government Inspector model, and RTCAs position is that the cost, benefit, and duplication of the Industry Check Inspector role should be considered.



3.21.3	<p><i>What are stakeholders' views on the inclusion of a provision that prohibits a person from making a direction to a statutory function holder with respect to a technical matter pertaining to the statutory function holder's area of expertise against the advice of the statutory function holder?</i></p> <p>Opposed to this provision being included. The functions of the statutory positions are defined, and the responsibilities of the SSE / Mine Operator to oversee the statutory functions is also clearly defined, therefore this provision is not required.</p>
3.22	<p><i>What are stakeholders' views on the adequacy of the transitional arrangements for compliance with the various regulatory provisions in the draft WHS (Mines) Regulation in appendix B?</i></p> <p>The transition period of 6 months for the safety management system is too short. The requirements for the PMHMP, PCPs, Contractor H&S Management Plans, and Emergency Plans also require the consultation and training of all the relevant workers. At least 12 months is requested to allow for consultation and training of workers.</p>
4	<p><i>What are stakeholders' views on the development of the tri-state mining codes of practice listed above?</i></p> <p><i>What are stakeholders' views on not adopting the Survey and drafting for mine survey plans code of practice in NSW, in light of the requirement for mining surveyors to have to comply with the Survey and Drafting Directions for Mine Surveyors issued by the Surveyor General?</i></p> <p>Strongly support the adoption of the Surveying and drafting for Mine Survey Plans Code of Practice. Statutory surveyor feedback from our operations is they currently work to and rely on the COP. Preference is to see this COP adopted.</p>
5.1	<p><i>What are stakeholders' views on the most appropriate election process for mine safety and health representatives at coal mines?</i></p> <p>There should not be any special election processes for coal mines. The election process should remain as per the current requirements in the <i>Work Health and Safety Act 2011</i> (NSW) and the <i>Work Health and Safety Regulation 2011</i> (NSW). There is no case or need for requiring a different or separate election process for Coal Mines to that which already exist in harmonised laws. The election process is deemed fair and transparent for all other sectors and mines, it is therefore also fair and transparent for Coal Mines.</p>

Part 2 - Comments in relation to draft regulation

Clause number	Title of clause and your comment or suggestion
3 Definitions	<i>Contractor</i> (b) – exclusion should also apply to delivery personnel delivering fuel and parts/equipment to stores
3 Definitions	<i>Methane</i> is not the same, & does not pose the same risks, as ethane and propane. These need to be separated.
9 (1)	PCBU <u>must</u> manage risk is not interpreted as an absolute, but in accordance with 3.1 of WHS Regs and “reasonable practicable”.
9 (5)(a)	Keeping records of <u>each</u> risk assessment is impractical. This should apply only for significant changes to Major Hazard Plans and Control Plans
15 (a)	Consider it to be impractical to have performance standards for measuring the effectiveness of <u>all</u> aspects of the safety management system
16 (1)	“Changes to safety management system” Consider it to be impractical to supply details for ‘ <u>any</u> ’ safety management system change. Potential to capture minor changes and updates to SMS. Impact is significant, particularly if ‘ <u>any</u> ’ changes are consulted with the workforce (refer CI 119 and 120). Suggest provision of details is relevant for Principal Control Plans (refer CI 25) or Principal Mining Hazard Management Plans (refer to CI 5) due to risk level.
23 (1)	Preparation of PMHMP must not be retrospectively applied to existing controls used. 6 month transition timeframe would not be adequate to ensure all PMHMPs are review and comply with 23 (3) c-g
23 (3) c,d,e,f,g	
23 (3)(i)	This clause is impractical and should be deleted entirely
27 (& 131)	“Communication between outgoing and incoming shifts” States <u>written</u> report, and (d) signing thereof on the report and acknowledgement. Wording needs to allow for electronic reports, communication and acknowledgement. In practice, many areas use electronic shift handover reports, which are communicated and acknowledged (received). Concerned that wording will be used to prevent use of electronic reports. If the process of information, handover, acknowledgement and communication is achieved then the report could be written or electronic format. Requirement to keep Shift handover communications for 7 years seems excessive. 2-3 years more appropriate. After 2-3 years they would be outdated and irrelevant.
29	“Operation of belt conveyors”
29 (2) (d) (i)	The requirement for 8 hour inspection of all belts in surface mine or coal handling preparation plant is not realistic. Suggest inspections completed based on determined risk level (Mechanical Engineering Management Plan). Risk based, PMHP approach would allow for



	underground vs surface differences.
(2) (d) (ii)	Wording is not clear. Does this mean that every time a belt is shutdown an inspection for the presence of overheating smouldering etc. is required, OR if a belt is shutdown because overheating, smouldering etc. is suspected then an inspection must occur? Have interpreted it as the latter.
33	“Electrical Safety”
33 (2) (b) (ii)	Not practical, nor is there a risk based need that the mine operator or Electrical Engineer is notified about every testing for energization of a circuit for the first time or following recommissioning. Licenced and appointed electricians conduct this work. Suggest this is only required for work defined as high risk (e.g. CI 34)
33 (f) (vii)	Due to age and legacy issues, it is not practical that “all buried electrical services” will be known or identified on a plan. This should be worded or interpreted in the context of reasonably practicable.
33 (h)	Due to age and legacy issues this is not realistic. Currently not all protection devices have an earth fault lockout feature; and not all cables have a pilot system (e.g. stackers and reclaimers) to monitor earth continuity. Provision required for legacy equipment.
33 (o)	Earth Leakage protection is not required and is not practical to install on ELV circuits.
Part 2 Subdivision 3 Fitness for Work	RTCA is concerned about the omission of physical fitness for work (defined role physical requirements) and psychological impairment from this section and within the Regulations generally. The Mine Operator requires Regulation to be able to manage the increasing risks of physical fitness and psychological health and its impact on health & safety at the mine site. Request that physical fitness and psychological health provisions are included.
85	Inspection program
85 (2) (b) (iii)	Is specifically for an underground mine.
85 (4)	Specific 8 hour inspection requirement is not practical for 24 hour/12 hours shift operations. Suggest that specific time period is removed and refer to CI38 (2) & (3) inspection program and risk assessment requirement If 8 hrs was used, in a 12 hrs shift arrangement two inspection report in one shift and only one report in next 12 hrs and hand over report of inspection Suggest all references to 8 hours be changed to <i>per shift</i> ? The hours should be left out and refer to once per shift –different pits have different shift lengths
85 (11)	Wording needs to be amended to clearly identify “immediate place work” for workers to examine for risks prior to commencing.
87 (2) (vi)	Remove “transportation” as it implies vehicle or mobile plant is only option. “appropriate means for persons at risk ...”
93	Review of emergency plan is interpreted as a full review, including risk assessment, consultation and training with workforce, and involvement of external agencies. It is not considered practical to conduct a full review of the plan every 12 months unless there has been a change in operations or risks. Recommend that the review section be changed to 3 yearly. This applies to the review element only. An annual test of emergency plan is appropriate, and annual tests may result in minor improvements or changes which do not constitute a full review requiring full risk assessment, consultation and re training every 12 months.
94	Training of workers in emergency plan is to “relevant to workers role and required response.” Different training levels for different roles and different levels of the mine site.



Part 2 Division 7 102	Duplication and overlap of Information, Training & Instruction requirements with Order 34 for Coal mines.
103 (2)(a)	The identification of task specific hazards is part of the risk management process and is often assessed immediately prior to commencement of the task. This process makes it impractical for the mine operator to supply workers with information, etc. for all hazards
104	“Duty to provide information, training and instruction” “provide the worker with knowledge of all aspects of the safety management system”. This is not practical. Large parts of the SMS will not apply to every workers role. The wording should reflect “all aspects of the safety management system <i>which are relevant to their work role</i> ”. This wording should be included throughout Part 2, Division 7 to ensure consistency.
108	RTCA does not support the inclusion of Health Monitoring requirements in addition to Order 41 for Coal Mines, and WHS Regulations provisions. There are clear conflicts which would create uncertainty and an unmanageable framework. For example 108 (3) states that health monitoring must be carried out at intervals <i>determined by a registered medical practitioner</i> . Order 41 requires 3 yearly periodic medicals. WHS Regs states 2 yearly for audiometric testing. We could have the situation where a person’s General Practitioner (Registered Medical Practitioner) states a person needs lung, hearing, or other medical tests every 3, 6, or 12 months (which we would be bound to comply with under these Mine Regs), Order 41 states 3 yearly (also need to comply for coal sites under Coal Industry Act) and WHS Regs states 2 yearly for audiometric testing (would also have to comply). There needs to be clear alignment between the WHS Regs, Mines Regs and Order 41 for this section to be practical.
111 (1)	There will need to guidance interpretation on what is “all expenses” related to health monitoring.
111 (2)	The duty should apply to the PCBU of the worker, not the mine operator
113	Current content of Health Monitoring Reports provided for the Coal Industry as part of Order 41 does not comply with this section. Regulator will need to introduce new format and content.
117 (a)	Must be a “significant risk of an adverse effect to workers health” same as 108, as this is what is being monitored and can be reported on, not “any” adverse health effect.
Part 4 119 & 120	“Consultation and Workers Safety Role” Supportive of consultation inclusions. However “safety role” is not clear terminology and implies a separate role. The provisions should make it clear that it is a general worker activity (not a specific individual role) and that consultation does not require agreement. For example, a provision could be included which simply states that agreement is not required to be reached between the parties or that, while consultation will occur, this will not impede the implementation of a decision made by a PCBU.
Part 5 121	“Mine Survey Plans & Mine Plans” Throughout this section, there is no reference to the Survey and Drafting Directions which give guidelines for plan format, standards and procedures, definitions, supply, accuracies, certification and the like. Strongly recommend that the NSW Guidelines are adopted or referenced.
121 (4) (c)	Suggest this should relate only to ‘high voltage’ infrastructure for a surface operation only.
121 (4) (d)	Suggest this is impractical for open cut and washery operations. Should relate to underground only.



127 (2)	Should be 7 days for lower level, non-immediate incidents (old s56)
133 (5) & 135 (3)	<p>Statutory Positions “More than one individual may hold a particular statutory position (other than a key Statutory position)...” “...ensure that no one individual is appointed to hold a key statutory position at the mine:” In the roles of Mining Engineering, Electrical and Mechanical, the current practice is to appoint different individuals (more than one and in key statutory positions) to different locations/defined boundaries within the mine. Due to the geographical size and nature of the mine operation it has been deemed appropriate to ensure the person has the required time to fulfil the functions adequately. This structure does not create overlap, confusion or competing interests. Each role has a clearly defined boundary of responsibility. E.g. Manager of Mining Engineering for Production/Coal & Overburden, and Manager of Mining Engineering for Rehabilitation & Pre strip land. Electrical Engineer for Mine and Electrical Engineer for CHPPs. The size of operations and locations warrants more than one appointment, and we would be in non compliance with this requirement.</p>
135(4)	From a Mining Surveyor point of view, 7 days vacancy is not practical. This would mean a Cessation plan would need to be prepared and handed over to another Registered Mining Surveyor every time you take leave. 4 weeks would be more reasonable.
175(9)	<p>“Registration of plant...” Needs to be amended to allow use of equipment where application has been lodged with WorkCover. Where, for example, a pressure vessel has been inspected by a competent inspector, use of the vessel and the equipment it is on (e.g. large mining equipment – dump truck), should not be stopped while only waiting on paperwork from WorkCover, which may take many weeks.</p>



177 (d)	<p>“For the purposes of section 14 c of the WHS (Mines) Act, each of the following is prescribed as a dangerous incident. <i>(d) a vehicle or plant making contact with an energised source having a voltage greater than 1,200 volts.</i>” This should only be required to be reported when there is a serious risk to an individual. E.g. <i>(d) a vehicle or plant making contact with an energised source having a voltage greater than 1,200 volts, when it involves a risk to any person, such as:</i></p> <ol style="list-style-type: none">1.<ul style="list-style-type: none">- <i>Cable penetrated though Kevlar braid; and</i>- <i>Person/s in direct line of fire; and or</i>- <i>Persons in contact with the ground and equipment at the same time</i>2. <i>Cable and plug catastrophically fails</i>
Schedule 2, 3 (m)	<p>This also needs to take in to account for telecommunications authority’s to enable them to access their assets which supply private customers from within the mine boundaries.</p>
Schedule 3, 3	<p>“Electrical work on energised electrical equipment” Electrical Work The definition of “Electrical Work” (CI 146 Workplace Health and Safety Regulation 2011) includes testing. If this is interpreted to mean that electrical work including testing or ‘testing for dead’ (confirming isolation) then this will create an unmanageable requirement. The intended control requirement is clearly meant for intend work/testing on energised electrical equipment. Strongly suggest this is defined as to exclude testing for dead (testing to confirm isolation.)</p>
Schedule 4, 6 (c) & (d)	<p>Prohibited use in Mines What is the definition of work area at a mine? Is it that the immediate work area or would an entire workshop be classed as the work area? A typical workshop would have multiple ignition sources including hot work but may also contain solvents & flammable vapours being used in other parts of the workshop or ‘work area’. As long as they are contained appropriately or are far enough away to eliminate risk in accordance with relevant AS then there should be no issue.</p>



<p>Schedule 10 Part 2, 4 (1) – (9)</p>	<p><i>Site Senior Executive, Manager Mining Engineering, and OCE</i> do not contain specific requirements or transparent process for competence and appointment. (Mining Surveyor, Electrical, Mechanical roles contain specific requirements for appointment including experience and qualifications).</p> <p>The current process for Manager of Mining Engineering & OCE appointments is not viewed by RTCA as transparent. Concern that SSE appointment process is not defined and would also be not transparent. SSE competencies, qualifications and appointment process from QLD to be adopted?</p> <p>“<i>Electrical engineering manager</i>” No reference to ‘Electrical Engineer’. Position is ‘Electrical engineering manager’ instead of ‘Qualified electrical engineer for an open cut or washery. Ability to control and <u>manage</u> electrical engineering <u>activities</u> and standards. Concern that EEM does not manage all activities.</p> <p>“<i>Mechanical engineering manager</i>” No reference to ‘Mechanical Engineer’. Position is ‘Mechanical engineering manager’ instead of ‘Qualified mechanical engineer for an open cut or washery. Ability to control and <u>manage</u> mechanical engineering <u>activities</u> and standards. Concern that MEM does not manage all activities.</p> <p>Electrical tradesperson” Should an Electrical Tradesperson be a statutory function? What is the benefit compared to other roles referred to in Regs? 8 Paragraph and intent requires clarification - To supervise Electricians you must be an electrical tradesperson. Not practical. We have Supervisors and Managers who supervise Electrical Tradespersons as part of a maintenance team, but do not have electrical qualifications (many have mechanical or engineering qualifications)</p>
<p>Schedule 10, Part 2,4 (8)(b)(iii)</p>	<p>The date of 21 December 2004 is not adequate for a person who may have been an electrician employed by a mine previous to that date for at least 2 years, who subsequently left that role, and now may want to return to that role. Hence it should state ‘at least 2 years employment by a coal operation as an electrician prior to 2006’. Previous Regs wording worked 2 years prior to 21 Dec 2006</p>
<p>Schedule 10, Part 2, 9, (b)</p>	<p>“<i>Mechanical tradesperson</i>” Should a Mechanical Tradesperson be a listed as a statutory function? What is the benefit compared to other roles referred to in Regs? Certificate III in Engineering – Mechanical Trade is too prescriptive. Suggest revised to state a mechanical trade qualification. Doesn’t allow for past experience and demonstrated competence. Supervision – of multi-function trades teams, do not have mechanical and electrical qualifications. Inappropriate and does not cover majority of site requirements that are not electrical e.g. plumbers, tilers, cleaners, lawn maintenance, etc.</p>



**Trade &
Investment**
Mine Safety