Queensland's Mine Safety Framework
Consultation Regulator Impact Statement submission form
Introduction

The questions in this submission form cover the main proposals and are prompts to assist you with your response. You do not have to answer every question and additional comments are welcomed.

We ask you for a few contact details, to assist us with our analysis, but you do not have to provide any contact or background details you do not want to provide.

Please see the last page of this submission form for ways to send your submission to the Department of Natural Resources and Mines (DNRM).

Consultation closes at 5pm 11 November 2013.

DNRM will post the names of organisations and individuals and their written submissions on the DNRM and/or Consult Queensland websites. However, individuals may indicate below whether confidentiality of name or submission or both is requested.

( ) I do not give permission for my name to be published but my submission may be published.

( ) I do not give permission for my submission to be published but my name may be published among the list of those making submissions.

( ) I do not give permission for either my name or submission to be published.

Your name and/or submission may be requested under the Right to Information Act 2009 but any request for confidentiality above will be taken into account when DNRM respond to any requests for information under that Act.

Contact details

Name: Jason Hill

Address:

Email:

Organisation (if applicable):

Position (if applicable):
Questions

I am making this submission:

( x ) as an individual

( ) on behalf of a group or organisation (please specify)

_____________________________

( ) other (please specify) ___________________________

Are you one of the following?

( ) Senior Site Executive - coal
( ) Underground Mine Manager - coal
( ) Senior Site Executive - metalliferous
( ) Underground Mine Manager - metalliferous
( ) Mine manager or operator – metalliferous
( ) Quarry manager or operator
( ) Mine worker directly employed - coal
( ) Mine worker contractor - coal
( ) Mine worker directly employed - metalliferous
( ) Mine worker contractor metalliferous
( ) Mine worker directly employed - quarry
( ) Mine worker contractor - quarry
( ) Mining industry association
( x ) Union employee
( ) Union representative
( ) Member of mining community
( ) University representative
( ) Industry training organisation
( ) Government employee
( ) Other
Background

The following lists the main proposals covered in the Queensland’s Mine Safety Framework (QMSF) Consultation RIS. The proposals are covered briefly in the executive summary and in further detail in Appendix E on the QMSF Consultation RIS.

Key initiatives from the non-core options include:

1. improved contractor management
2. existing critical safety positions becoming statutory positions
3. improved risk management planning for high risk activities
4. safety and health management systems for opal or gem mines
5. improved stonedusting and use of explosion barriers.

Proposed provisions from the Model WHS Act that would add additional rigour and consistency include:

6. changes applying to executive officers
7. penalties and offences and imprisonment provisions
8. rights to appeal through the court system (identified options are subject to further consultation)
9. additional possible court orders following a prosecution
10. longer limitation period for prosecutions
11. obligations of designers, constructors, erectors and demolishers
12. protection from reprisal provisions (identified options are subject to further consultation)
13. entry to any workplace for inspectors.

Other proposals identified by Queensland based stakeholders as local issues through the June 2012 consultation process or they were identified by DNRM through other consultation processes include:

14. clarifying the directive given by safety representatives and inspectors about an unacceptable level of risk or the alternative proposal that safety representatives will have a role in the notification of potential risks but will not be able to issue a directive to suspend operations
15. election process for site safety and health representatives
16. fitness for work (coal mines)
17. issues related to mine plans for abandoned mines
18. removing the requirement for coal mines to submit mine plans at the end of each calendar year
19. refocusing the Coal Mine Workers’ Health Scheme
20. increasing the number of industry safety and health representatives
21. manufacturers and suppliers to inform the Mines Inspectorate in the event of a hazardous aspect or defect in equipment supplied
22. implementing Ombudsman recommendations about a confidential complaints system.
Instructions

Please provide examples or data to support your responses where possible. Please also refer to the page numbers within the QMSF Consultation RIS you are commenting on, if you are not directly responding to the questions below.

Non-core NMSF initiatives:

1. improved contractor management

Do you agree with the proposed approach? If not, what changes do you suggest and why?

This already exists under the current CMSHA and the obligations of the Holders, Operators and SSE are very clear.

<table>
<thead>
<tr>
<th>Section 40 of the CMSHA Obligations of holders</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) This section applies if the holder and the coal mine operator for a coal mine are or are to be different persons.</td>
</tr>
<tr>
<td>(2) The holder must—</td>
</tr>
<tr>
<td>(a) inform a person proposing to enter into a contract with the holder to act as coal mine operator, by notice, of all relevant information available to the holder that may help the proposed coal mine operator—</td>
</tr>
<tr>
<td>(i) to ensure the site senior executive for the coal mine develops and implements a safety and health management system for the mine; and</td>
</tr>
<tr>
<td>(ii) to prepare and implement principal hazard management plans for the mine; and</td>
</tr>
<tr>
<td>(b) include in the contract appointing the coal mine operator an obligation on the operator—</td>
</tr>
<tr>
<td>(i) to establish a safety and health management system for the mine; and</td>
</tr>
<tr>
<td>(ii) other than for exploration activities under an exploration permit or mineral development licence—to be a party to a mines rescue agreement.</td>
</tr>
<tr>
<td>Maximum penalty for subsection (2)—100 penalty units.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Section 41 of the CMSHA Obligations of coal mine operators</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) A coal mine operator for a coal mine has the following obligations—</td>
</tr>
<tr>
<td>(a) to ensure the risk to coal mine workers while at the operator’s mine is at an acceptable level, including, for example, by providing and maintaining a place of work and plant in a safe state;</td>
</tr>
<tr>
<td>(b) to ensure the operator’s own safety and health and the safety and health of others is not affected by the way the operator conducts coal mining operations;</td>
</tr>
<tr>
<td>(c) not to carry out an activity at the coal mine that creates a risk to a person on an adjacent or overlapping petroleum authority if the risk is higher than an acceptable level of risk under the Petroleum and Gas (Production and Safety) Act 2004;</td>
</tr>
<tr>
<td>(d) to appoint a site senior executive for the mine;</td>
</tr>
</tbody>
</table>
(e) to ensure the site senior executive for the mine—
(i) develops and implements a safety and health management system for the mine; and
(ii) develops, implements and maintains a management structure for the mine that helps
ensure the safety and health of persons at the mine;
(f) to audit and review the effectiveness and implementation of the safety and health
management system to ensure the risk to persons from coal mining operations is at an
acceptable level;
(g) to provide adequate resources to ensure the effectiveness and implementation of the
safety and health management system.

(2) Without limiting subsection (1), the coal mine operator has an obligation not to
operate the coal mine without a safety and health management system for the mine.

(3) In this section—
adjacent or overlapping petroleum authority means any of the following under an Act as
follows if, under that Act, its area is adjacent to, or overlaps with, the land the subject of
the
mining tenure under which the coal mine is operated—
(a) a 1923 Act petroleum tenure under the Petroleum Act
1923;
(b) a petroleum tenure under the Petroleum and Gas

Section 42 of the CMSHA  Obligations of site senior executive for coal mine
A site senior executive for a coal mine has the following obligations in relation to the
safety and health of persons who may be affected by coal mining operations—
(a) to ensure the risk to persons from coal mining operations is at an acceptable level;
(b) to ensure the risk to persons from any plant or substance provided by the site senior
executive for the performance of work by someone other than the site senior executive’s
coal mine workers is at an acceptable level;
(c) to develop and implement a single safety and health management system for all persons
at the mine;
(d) to develop, implement and maintain a management structure for the mine that helps
ensure the safety and health of persons at the mine;
(e) to train coal mine workers so that they are competent to perform their duties;
(f) to provide for—
(i) adequate planning, organisation, leadership and control of coal mining operations; and
(ii) the carrying out of critical work at the mine that requires particular technical
competencies; and
(iii) adequate supervision and control of coal mining operations on each shift at the mine; and
(iv) regular monitoring and assessment of the working environment, work procedures,
equipment, and installations at the mine; and
(v) appropriate inspection of each workplace at the mine including, where necessary, pre-
shift inspections.

As the RIS is suggesting to provide further guidance about how a single and
effective safety and health management system is to be achieved. It is quite clear
know and if was enforced there would not be a problem with contractor management.

2. existing critical safety positions becoming statutory positions

Do you agree with the proposals? If not, what changes do you suggest and why?

*I do agree with this change as this will allow for much safer running of coal mines as the people in these positions will have to have the competencies to hold these positions, which will provide for more effective decision making and improve the health and safety at the mines, rather than people in the positions making the decisions without having the appropriate knowledge.*

Can you please suggest how long the transitional period should be for particular positions and why?

*There is no need to have a transitional period, If the SSE discharged their obligations under section 55 and 56 of the CMSHA then the persons appointed to these supervisory roles would already have the competencies to perform that tasks.*

**Section 55 of the CMSHA Management structure for safe operations at coal mines**

(1) The site senior executive for a coal mine must—
(a) develop and maintain a management structure for the coal mine in a way that allows development and implementation of the safety and health management system; and
(b) document the management structure.
Maximum penalty—40 penalty units.

(2) The document must state—
(a) the responsibilities of the site senior executive; and
(b) the responsibilities and competencies required for senior positions in the structure; and
(c) the names of the persons holding the senior positions and their competencies; and
(d) the competencies required, and the responsibilities, for each other supervisory position at the mine.
Maximum penalty—40 penalty units.
(3) For subsection (2)(b), an inspector may by notice given to the site senior executive declare a position to be a senior position.
(4) For each supervisory position mentioned in subsection (2)(d), the site senior executive must also keep a record of the names and competencies of each person authorised to carry out the responsibilities of the position.
Section 56 of the CMSHA Competencies of supervisors
A site senior executive must not assign the tasks of a supervisor to a person unless the person—
(a) is competent to perform the task assigned; and
(b) if there is a safety and health competency for supervisors recognised by the committee, has the relevant competency.
Maximum penalty—100 penalty units.

Do you agree with the recommendation of the Coal Mining Safety and Health Advisory Committee that statutory position holders be directly employed and not engaged as contractors, or alternatively that they generally work exclusively for a mine (for example, 85% of the time). Would this be practical if they also, at times work across the operator’s mines covering leave and absences as required?

Further information is in Appendix E of the QMSF Consultation RIS under Recent Queensland proposals in the Statutory Positions section. Please provide any information about practical considerations.

Yes statutory positions should be employed by the mine that they work at. No they should not be allowed to go from one mine to another. This will allow for confusion and conflict. As a supervisor with obligations concerning the health and safety of CMW’s they are in charge of, the number of safety and health management systems they will need to remember and if there are changers while away from a mine how are they going to made competent.

Yes Open cut mine manager, undermanager, ventilation officer, should be made statutory certificate holders and electrical engineering managers for surface mines

Supervisors competencies need to be more aligned to the role being supervised.

3. improved risk management planning for high risk activities

Do you agree with the proposed approach and list of high risk activities? If not, what changes do you suggest and why?

Yes I agree with these proposals as long as the current notifications remain and that where an Inspector has to sign off to allow people to remain underground
should be tightened up to mean this is done when sealing occurs not a long time before. Also the regulations related to high risk matters need to retain specific details to assist mines to develop the SHMS for these.

4. safety and health management systems for opal or gem mines

Do you agree with the proposed approach? If not, what changes do you suggest and why?

N/A

5. improved stonedusting and use of explosion barriers.

Do you agree with the proposed approach? If not, what changes do you suggest and why?

Yes I strongly agree with the reintroduction of explosion barriers in underground mines. The current stonedust requirements are good, but how long to redust areas while testing of samples are being done leads to areas of the mine, especially conveyor roads and returns are constantly out of compliance and hence leave a potential path of an ignition of gas to propagate. I am not aware of any mine that has complied with section 300 (2)(e) of the CMSHR

300 General
(1) An underground mine’s safety and health management system must provide for the following—
(a) minimising the risk of coal dust explosion;
(b) suppressing coal dust explosion and limiting its propagation to other parts of the mine.
(2) The system must include provision for the following—
(a) limiting coal dust generation, including its generation by mining machines, coal crushers and coal conveyors and at conveyor transfer points;
(b) suppressing, collecting and removing airborne coal dust;
(c) limiting coal dust accumulation on roadway and other surfaces in mine roadways;
(d) removing excessive coal dust accumulations on roadway and other surfaces in mine roadways;
(e) deciding the stonedust or other explosion inhibitor application rate necessary to minimise the risk of a coal dust explosion.
Proposals from the *Model WHS Act* that would add additional rigour and consistency:

6. changes applying to executive officers

Do you agree with the proposed approach? If not, what changes do you suggest and why?

*Yes I agree. As long as they are made accountable for any incidents where they have not ensured the operators or others at the mine have been provided resources and assistance to minimise risk to workers and they are killed or injured or workers are exposed to serious risk to their safety and health. Do you agree with the proposed approach?*

7. penalties and offences and imprisonment provisions

*No as some of these changes appear to dilute the types of offences that relate to the penalties. I have no problem bringing penalties in line with WHS legislation. I believe the offences regime in the CMSH Act is a better fit for the mining industry. However, we do support increasing the penalties to bring the CMSH Act in line with the Work Health Safety Act 2011 (Qld).*

8. rights to appeal through the court system (identified options are subject to further consultation)

Which option do you prefer? Please suggest why you prefer that option.

*While seeing why company representatives would want an appeal process to go to other court jurisdiction, what about a process that gives a common worker the right to have their case heard where it is alleged they breached the SHMS or legislation and the employer sacks them on safety grounds. They do not get an appeal only through the industrial relations system. This system needs to be made fair for all CMW’s and the only system that can be used for CMW’s not discharging their obligations.*
9. additional possible court orders following a prosecution

Do you agree with the proposals? If not, what changes do you suggest and why?

*Yes but this should also include enforceable undertaking where a guilty admission is made to the charge and then instead of going to court an undertaking which may assist the industry can be agreed. ISHRs or SSHRs may be part of the follow-up team.*

10. longer limitation period for prosecutions

Do you agree with the proposals? If not, what changes do you suggest and why?

*Yes this may allow for better or more detailed investigations. The department needs to prioritise the investigations to find and find the outcomes as soon as possible to make it less stress on persons associated with the incident. The legislation is about protecting persons Health and Safety and when these investigations continue over an extended period they have effects on the person’s life and family.*

11. obligations of designers, constructors, erectors and demolishers

Do you agree with the proposals? If not, what changes do you suggest and why?

*Yes make the obligations of these positions clearer for person’s to understand and comply with. As the CMSHA already has obligations under section 44 of the CMSHA. The issue is that these obligations have never been enforced.*

**Section 44 of the CMSHA Obligations of designers, manufacturers, importers and suppliers of plant etc. for use at coal mines**

(1) A designer or importer of plant for use at a coal mine has an obligation to ensure the plant is designed so that, when used properly, the risk to persons from the use of the plant is at an acceptable level.

(2) A manufacturer or importer of plant for use at a coal mine has an obligation to ensure the plant is constructed so that, when used properly, the risk to persons from the use of the plant is at an acceptable level.

(3) A designer, manufacturer or importer of plant for use at a coal mine has an obligation to ensure the plant undergoes appropriate levels of testing and examination to ensure compliance with the obligation imposed by subsection (1) or (2).

(4) Also, a designer, manufacturer, importer or supplier of plant for use at a coal mine has
the following obligations—
(a) to take all reasonable steps to ensure appropriate information about the safe use of the plant is available, including information about the maintenance necessary for the safe use of the plant;
(b) to take the action the chief inspector reasonably requires to prevent the use of unsafe plant anywhere.

Example of subsection (4)(b)—
The chief inspector may require a designer, manufacturer, importer or supplier of plant to recall the plant to prevent its use.

(5) For subsection (4)(a), information is appropriate if the information states—
(a) the use for which the plant has been designed and tested; and
(b) any conditions that must be followed if the plant is to be used safely so that risk to persons is at an acceptable level.

(6) If a supplier of plant becomes aware of a hazard or defect associated with the plant the supplier has supplied to a coal mine operator for a coal mine or to a contractor for use at a coal mine, that may create an unacceptable level of risk to users of the plant, the supplier has an obligation to take all reasonable steps to inform the coal mine operator or contractor—
(a) of the nature of the hazard or defect and its significance; and
(b) any modifications or controls the supplier is aware of that have been developed to eliminate or correct the hazard or defect or manage the risk.

Example of a recent issue from a designers, manufacturers and supplier.

During an AS3800 overhaul of Traction Enclosure IECEx ITA 11.0010X Ser No. C14652 Component number 100279141 on CM01 JM6450. It was identified that certification documents require a minimum l of 9mm for the inspection window flame path. The l was found to be 6mm.

This noncompliance was found on all the JOY continues miners at an underground mine on the 30/10/2013 and was reported as a HPI.

Another example is the HPI shown below. This HPI occurred 2 times in one week at to different mines on a particular brand of LHD.

The operator on Loader 36 in his normal duties noticed his allocated machine start showing “CH4 Bypass” with bypass switch locked in “Normal” position. The machine was quarantined and further investigation found that the control wiring terminal block had migrated down and became contaminated with water causing a short on the bypass circuit of the machine.

Both these HPI’s placed CMW’s at a significant risk. There have been no accountabilities with these incidents.

12. protection from reprisal provisions (identified options are subject to further consultation)

Which option do you prefer? Please suggest why you prefer that option.
Yes We support adopting all the provisions contained in Part 6 of the Work Health and Safety Act 2009 (Qld)

13. entry to any workplace for inspectors.

Do you agree with the proposal? If not, what changes do you suggest and why?

Agree that Inspectors can enter workplaces other than mines if mining associated safety is at risk. As there have been a number of incidents reported due to the fact that workshops and suppliers to the mining industry have not discharged their obligations and have supplied non fit equipment to the industry placing CMW’s at risk. Inspectors also need to be able to give directives in these places if the these places are suppling mines with plant that may affect the safety and health of CMW’s. this will put the responsibility back on the suppliers to rectify their the issue not on the mines.

Local proposals

14. clarifying the directive given by safety representatives and inspectors about an unacceptable level of risk or the alternative proposal that safety representatives will have a role in the notification of potential risks but will not be able to issue a directive to suspend operations

? to be finalised

No I do not agree and in fact strongly oppose this change if anything the ISHRs should have the ability to also issue a s166directive and if the process is to meet the Harmonised OHS or NSW then they should get Pins, as well, which are available to HSR which would assist in not having to stop mining operations but still get risks addressed.

I very strongly disagree with this proposal. I believe this is a lessoning of health and safety standards. The Ex- Chief inspector of Coal Mines stated at the forums that the ISHR’s have threatened operators and misused their powers. There has been 83 directives issued by Industry safety and health representatives of which only 1 of them has had the compliance policy used but the minister has not removed any Industry
No I do not support the proposals to change the powers of the Industry Safety and Health Representatives/DWR by either of the proposals as mentioned at page 107 of the RIS. On first reading of the proposal to clarify the meaning of the current s167 directive I believe that this is currently clear and has not as such been challenged by anyone.

The “interpretation” put forward at page 108 of the Consultation RIS are in my opinion clearly misrepresented.

“Section 167 of the CMSHA has the following section heading: ‘Directive to suspend operations for unacceptable level of risk’. Section 31 of the CMSHA describes what actions are to be taken if there is an unacceptable level of risk at a mine. These sections indicate urgency or immediacy of danger.”

167 Directive to suspend operations for unacceptable level of risk

(1) If an inspector, inspection officer or industry safety and health representative believes risk from coal mining operations is not at an acceptable level, the inspector, officer or representative may give a directive to any person to suspend operations in all or part of the mine.

(2) The directive may be given orally or by notice.

(3) If the directive is given orally, the person giving the directive must confirm the directive by notice to the person in control of the mine or part of the mine affected by the directive and to the relevant site senior executive.

(4) Failure to comply with subsection (3) does not affect the validity of the directive.

The powers of the ISHR include s119(f) to issue a directive under s167

The interpretation is attempting to change the meaning of “acceptable level of risk” which is clearly defined in section 29 CMSHA and how the obligation to ensure acceptable level of risk can be discharged at s37 CMSHA.

29 What is an acceptable level of risk

(1) For risk to a person from coal mining operations to be at an acceptable level, the operations must be carried out so that the level of risk from the operations is—
   (a) within acceptable limits; and
   (b) as low as reasonably achievable.

(2) To decide whether risk is within acceptable limits and as low as reasonably achievable regard must be had to—
   (a) the likelihood of injury or illness to a person arising out of the risk; and
   (b) the severity of the injury or illness.

37 How obligation can be discharged if regulation or recognised standard made
If a regulation prescribes a way of achieving an acceptable level of risk, a person may discharge the person’s safety and health obligation in relation to the risk only by following the prescribed way.

If a regulation prohibits exposure to a risk, a person may discharge the person’s safety and health obligation in relation to the risk only by ensuring the prohibition is not contravened.

Subject to subsections (1) and (2), if a recognised standard states a way or ways of achieving an acceptable level of risk, a person discharges the person’s safety and health obligation in relation to the risk only by—

(a) adopting and following a stated way; or
(b) adopting and following another way that achieves a level of risk that is equal to or better than the acceptable level.

The CMSHR at the start of Chapters 2 r5, Chapter 3 - Surface mines, r102 and chapter 4 Underground Mines - r148 states that the Chapters “prescribes ways of achieving an acceptable level of risk at a coal mine” and goes further by stating “a person may discharge the person’s safety and health obligation mentioned in the chapter only by following the prescribed way”. Hence if the stated way has not been followed then it would be possible to have a belief that the risk from the relevant coal mine operations is not at an acceptable level.

Section 5 of the CMSHR Ways of achieving an acceptable level of risk
(1) This chapter, other than sections 47(3) and 52(1), prescribes ways of achieving an acceptable level of risk at a coal mine in the circumstances mentioned in the chapter.
(2) However, this chapter does not deal with all circumstances that expose someone to risk at a coal mine.
(3) A person may discharge the person’s safety and health obligation in the circumstances mentioned in this chapter only by following the prescribed ways.

Editor’s note—
See section 34 (Discharge of obligations) of the Act for the penalty for failing to discharge the obligation.

Section 31of the CMSHA What happens if the level of risk is unacceptable
(1) If there is an unacceptable level of risk to persons at a coal mine, this Act requires that—
(a) persons be evacuated to a safe location; and
(b) action be taken to reduce the risk to an acceptable level.
(2) Action to reduce the risk to an acceptable level may include stopping the use of specified plant or substances.
(3) The action may be taken by the coal mine operator for the mine, the site senior executive for the mine, industry safety and health representatives, site safety and health representatives, coal mine workers, inspectors or inspection officers.
These sections do not indicate urgency or immediacy of danger, rather require that all Coal Mine workers are protected and indeed meet section 6 of the CMSHA

Section 6 of the CMSHA Objects of Act
The objects of this Act are—
(a) to protect the safety and health of persons at coal mines and persons who may be affected by coal mining operations; and
(b) to require that the risk of injury or illness to any person resulting from coal mining operations be at an acceptable level; and
(c) to provide a way of monitoring the effectiveness and administration of provisions relating to safety and health under this Act and other mining legislation.

Therefore there is no ambiguity suggesting that section 167 CMSHA can be proactively used to reduce risk. Simply put section 167 Directive allows for the suspension of operations where there is a belief that operations are not at an acceptable level of risk.

During the review undertaken by the Coal Mining Safety and Health Advisory Committee (CMSHAC) (2003) and after discussions between the Inspectorate and the ISHRs it was proposed that the section 166 directive be considered for issuance by ISHRs as well as Inspectors. This initiative would have indeed been able to proactively reduce risk without in most cases stop operations production.

Mackie document August 2006 to CMSHAC

“After reviewing the provisions in the legislation stated above it is the writer’s opinion that serious consideration should be given to including provisions in mining safety and health legislation empowering industry safety and health representatives and site safety and health representatives to issue PINS and following the example in the majority of other occupational safety and health legislation provide inspectors with the power to review pin.

27 /06 /2007 draft MOU on issuing directives working Group
ISHR and Inspectorate representatives met during 2003 and again in 2007 to develop a MOU for issuing directives, notification of directives to the other party and a protocol to be used where possible and practical when a directive review was applied for. The reason for only including the ISHRs and Inspectorate was that they are the only persons with the power to issue such directives. To date this has never been finalised.
Amending the words of section 167 (as proposed at paragraph 4 of page 108-RIS) “to be clearly confined to when the risk poses a danger that is urgent, imminent or immediate” is clearly a diminution of power of the ISHR, and are already powers available to Site Safety and Health Representatives (SSHRs) under section 101 CMSHA and which some SSEs have abused in the past by using section 103 of the CMSHA and restarting operations when “they” believed that the risk was acceptable.

<table>
<thead>
<tr>
<th>Section 101 of the CMSHA Stopping of operations by site safety and health representatives</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) This section applies if a site safety and health representative reasonably believes a danger to the safety or health of coal mine workers exists because of coal mining operations.</td>
</tr>
<tr>
<td>(2) The safety and health representative may, by written report to the site senior executive stating the reasons for the representative’s belief, order the suspension of coal mining operations.</td>
</tr>
</tbody>
</table>
| (3) If the site safety and health representative reasonably believes there is immediate danger to the safety and health of coal mine workers from coal mining operations, the representative may—
| (a) stop the operations and immediately advise the supervisor in charge of the operations; or |
| (b) require the supervisor in charge of the operations to stop the operations. |
| (4) The site safety and health representative must give a written report to the site senior executive about the action taken under subsection (3) and the reasons for the action. |

<table>
<thead>
<tr>
<th>Section 103 of the CMSHA Site senior executive not to restart operations until risk at an acceptable level</th>
</tr>
</thead>
<tbody>
<tr>
<td>The site senior executive must ensure that the coal mining operations stopped under section 101 are not restarted until the risk to coal mine workers from the operations is at an acceptable level.</td>
</tr>
</tbody>
</table>

It is important to note that the Inspectorates own RIS at page 106-107 states

Proactive inspector powers
The non-core policy consultations resulted in the position that New South Wales and Western Australian regulators intended to enact the powers to give and way of giving directives based on what currently exists in the CMSHA and MQSHA. These Queensland designed, risk based directives have proven very effective in enabling the Queensland inspectorate to anticipate and proactively require correction of safety and health management system problems or latent risks before they continue to develop into imminent or immediate risks, as well as more imminent problems or risks. Analysis of workplace disasters by well known academics such as Professor James Reason and Professor Andrew Hopkins have highlighted the importance of proactively addressing latent system problems because mining disasters often cannot be avoided at the imminent or immediate stage of realisation.
The Model Act threshold for regulator action of imminent or immediate is too high in a mining context due to the nature of the hazards and responding at a more anticipatory stage is required.

If this general power is implemented by New South Wales and Western Australia, it is proposed it will be an addition to Queensland’s current proactive powers rather than a replacement of any of them.

Whilst we agree with this section, and have supported this proposal to retain the directives section of the current Queensland CMSHA (Part 9 Division 5 Directives by inspectors, inspection officers and industry safety and health representatives) throughout the Harmonisation review, it is concerning that with some parties raising issues about ISHRs, that the proposals contained in the RIS do not even retain the option of the current legislative standard enabling ISHRs to issue an unchanged s167 directive if necessary.

RIS page 107

alternatively provide that ISHRs and DWRs will have a role in the notification of potential risks but will not be able to issue a directive to suspend operations.

The above alternative is clearly aimed at reducing the effectiveness of the ISHRs to that of a SSHR but with the limit that the ISHR will not be working on the mine site at all times when a risk may be imminent or immediate.

During the development of the current CMSHA and Regulation and in fact prior to that, as a result of the last Moura disaster (Moura No2-1994) the Queensland mining industry changed to a tripartite approach to the development of the style and content of the legislation. This is shown by the consultation and cooperation process throughout the legislative instruments. That process has not been utilised to date in the current reviews.

The legislation also is based, to date, on Safety and Health Management Systems and this required a different approach from those overseeing the safety provisions. To this end the Inspectorate and their officers as well as the ISHRs are mainly driven by the systems approach to ensure “acceptable level of risk” and hence the powers of the ISHRs allow for the review of SOPs, PHMPs and the Safety Management Systems. This means that an ISHR will either visit the mine or may have discussions with the SSE and other CMW and may need to take some documents, that are very detailed, away to review and the outcome may be that they then have a belief that the systems are not ensuring acceptable level of risk. Another option is that the ISHR has received a report of a HPI and with their knowledge of the industry together with additional information provided can make a decision that the operation is not at an acceptable level of risk.
Hence again the need for ISHRs to retain the current section 167 directive power which can be utilised where they have a belief that the risk is not at an acceptable level to protect coal mine workers.

Since the introduction of the current CMSHA in full on 16th March 2001 the persons holding the position of ISHR, have given a section 167 directive on approximately 80 occasions. Initially these were for some, one off situations at mines where they believed that the risk was not at an acceptable level, and we could not get the SSE to understand/accept the risk levels. This has changed to where the majority of the directives have been at a systems level. As well the ISHRs have given in excess of three times that many section 121 for inadequate or ineffective safety and health management systems. A number of which have been referred to an Inspector when the ISHR has not been satisfied with the SSEs actions to address the same.

A number of SSE’s or in most cases the Operator, have applied for a review of section 167 directives, this is the last 4 years has been almost singularly one company or its associated companies, BHP Billiton. They have also been the mines which have attempted to have SSHRs and ISHR removed from their elected positions over alleged misuse of safety and Health powers.

To date under the current CMSHA there has been five investigations by the Inspectorate into ISHRs actions three of which the originator of the request has asked for the removal of appointment as an ISHR. To date since the right to have ISHRs/DUIs in 1938 there has not been one ISHR removed by a Minister.

**112 Termination of appointment**

(1) The Minister may end the appointment of an industry safety and health representative by notice if the Minister considers the representative is not performing the representative's functions satisfactorily.

(2) The notice must contain the Minister's reasons for ending the appointment of the industry safety and health representative.

The directives issued by ISHRs can be broken into seven different type groups:

- section 167 directive issued by ISHR and SSE complies with the directive and achieves acceptable level of risk
• **section 167 directive issued by ISHR to mines with similar equipment and after mines have implemented interim controls there has been an industry forum to determine engineering controls for the hazard.**

Example: 3 August 2004 – all underground mines - Dalliston – protection of electrical cables from alternator on Flameproof Diesel plant

• **directives issued at a mine when the ISHR has attempted to get the SSE to address a matter where the ISHR believes that acceptable level of risk is not being achieved, and after issuing the section 167 the ISHR has spoken with an Inspector and the Inspector indicates that they will withdraw the section and issue a section166 which while still ensuring the issue is addressed effectively allows work to continue under stated conditions. In almost all of these occasions the ISHR and Inspector are in agreement and in fact if the ISHR had the power to issue a section166 he would have done so instead of the section 167. These are now getting less frequent.**

Example: 26 August 2002 – Newlands Opencut – Smyth – Dragline Brakes – Inspector Smith issued a s166 which allowed plant to continue operation but develop and implement effective brake testing. 2013 CMSHAC determine brake testing competencies require for Industry.

• **Section167 directive issued by an ISHR and almost immediately the SSE or Operator has requested (usually by a phone call) to the CIOCM that the directive be withdrawn. After being instructed about the correct process (section175 application for review). The information required to review the directive is supplied to the CIOCM, who discusses the subject of the directive and on most occasions there is agreement on the contents and type of the new directive issued.**

Example: 23 July 2011 – Goonyella Riverside – Dalliston – One Man Dragline Operations – CIOCM left directive stand but requested the mine have an independent engineering study conducted and then conduct a risk assessment and develop a work process to be used as a trial period. 9To date the mine has not completed the requested actions and the directive still stands.)

• **Section 167 directive issued by an ISHR and almost immediately the SSE or Operator has requested (usually by a phone call) to the CIOCM that the directive be withdrawn almost immediately and with little or no discussion with ISHR.**

Example:
18 June 2004 Grasstree -Vaccaneo - entrances from surface – Inspectorate let mining recommence with no replacement directive and after a lengthy wait and Supreme Court decision the ISHR directive was reissued and the mine made to be brought into compliance.
25 February 2011 Goonyella Riverside –Gilbert- stopping shotfiring activities - Inspectorate withdrew directive, Explosives Inspectorate audit list number of actions which should be addressed, - within 5 months the mine has 5 other HPI of a similar nature. These may
have been prevented if the original s167 directive was investigated and acted on effectively.

- **Section 167 directive has been issued by ISHR even though Inspectorate present or ISHR has notified Inspectorate of their intent to issue a s167 if no action coming from Inspector**

  *Example:*

  2 February 2007 – Cook Colliery – Dalliston – stop work in potential Blast path at mine surface during underground heating. ISHR and Inspectorate were at the mine assisting with serious mine heating event.

  24 November 2010 – Grasstree – only days after Pike River explosion an ISHR has to encourage an Inspector to stop operations at Grasstree after the mine had a Frictional Ignition and had not determined the cause and hence additional controls had been implemented to prevent a further incident yet mining had recommenced in the same face. Inspector then stopped the operation.

- **Section 167 directive has been withdrawn after complaint from an Operator and the Inspectorate investigation has caused the use of the Mines Inspectorate Compliance Policy**

  *There have been a number of directives where the ISHR has spoken to a Mines Inspector and then issued a section 167 directive, and after the mines has asked for a review of the directive the Inspector has either asked the ISHR to withdraw the directive and the Inspector has issued a s166 directive in its place requiring the mine to take action to address the risk but allowing operations to continue, or the Inspector simply has issued a s166, withdrawing the ISHRs directive at the same time.*

  *Until recently (the last 3 to 4 years) requests to withdraw directives have not been a common occurrence.*

  *There has been only one occasion from over 80 directives, where a section 167 directive has been withdrawn and the Inspectorate investigation has caused the use of the Mines Inspectorate Compliance Policy actions, and a level 4 compliance meeting was held.*

<table>
<thead>
<tr>
<th>DATE</th>
<th>MINE</th>
<th>ISSUED BY</th>
<th>SUBJECT</th>
</tr>
</thead>
<tbody>
<tr>
<td>12 November 2001</td>
<td>Ebenezer</td>
<td>ISHR G. Dalliston</td>
<td>HWE Contracting redrafting Management/Supervision interim instructions</td>
</tr>
<tr>
<td>16 May 2002</td>
<td>Oaky No. 1</td>
<td>ISHR S. Smyth</td>
<td>Friction ignition – longwall operating system</td>
</tr>
<tr>
<td>20 June 2002</td>
<td>Oaky No. 1</td>
<td>ISHR G. Dalliston</td>
<td>Supervisors have not yet been trained and assessed in the competencies S1 Risk Management, S2 Accident Investigation and S3 Communication.</td>
</tr>
<tr>
<td>17 July 2002</td>
<td>Oaky No. 1</td>
<td>ISHR G Dalliston</td>
<td>Frictional Ignition on Longwall 21 Face</td>
</tr>
<tr>
<td>Date</td>
<td>Location</td>
<td>Inspector</td>
<td>Notice</td>
</tr>
<tr>
<td>---------------</td>
<td>-----------------------</td>
<td>-----------------</td>
<td>------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>26 August 2002</td>
<td>Collinsville</td>
<td>S. Smyth</td>
<td>Suspend Operations that involve the use of excavators</td>
</tr>
<tr>
<td>26 November 2002</td>
<td>Moranbah North</td>
<td>G. Dalliston</td>
<td>Procedures, training of person in emergency escape system, dust monitoring</td>
</tr>
<tr>
<td>11 December 2002</td>
<td>Oaky No.1 and Oaky North Mines</td>
<td>G. Dalliston</td>
<td>Part of the safety and health management system dealing with personal fatigue required under s42(a) of the CMSH reg 2001 has no further application</td>
</tr>
<tr>
<td>4 &amp; 5 February 2003</td>
<td>Southern Colliery</td>
<td>S. Vaccaneo</td>
<td>Ongoing difficulties in keeping the recently sealed LW 707 longwall goaf CH4/O2 trigger below the L3 level.</td>
</tr>
<tr>
<td>7 October 2003</td>
<td>Grasstree</td>
<td>S. Vaccaneo</td>
<td>Methane drainage system in its present configuration</td>
</tr>
<tr>
<td>21 October 2003</td>
<td>Moranbah North</td>
<td>S. Smyth</td>
<td>Forcing ventilation to exhausting ventilation</td>
</tr>
<tr>
<td>5 November 2003</td>
<td>Foxleigh</td>
<td>S. Vaccaneo</td>
<td>Radio repeater not to be removed until replacement repeater had been sourced, installed and operational</td>
</tr>
<tr>
<td>23 December 2003</td>
<td>Collinsville</td>
<td>S. Smyth</td>
<td>Suspend mining practise of dragline – dozer assist mining operations</td>
</tr>
<tr>
<td>9 March 2004</td>
<td>Oaky North</td>
<td>S. Vaccaneo</td>
<td>Auxiliary fan on which the automatic methane detector protection malfunctions or fails</td>
</tr>
<tr>
<td>25 March 2004</td>
<td>Blackwater</td>
<td>G. Dalliston</td>
<td>Suspend all explosive related activities at mine site</td>
</tr>
<tr>
<td>29 March 2004</td>
<td>Blackwater</td>
<td>G. Dalliston</td>
<td>Suspend all shotfiring activities except for secondary blasting (modification on directive issued 25/03/04)</td>
</tr>
<tr>
<td>18 June 2004</td>
<td>Grasstree</td>
<td>S. Vaccaneo</td>
<td>Two entrances from the surface of the respondent’s Grasstree Underground mine are not escapeways within the meaning</td>
</tr>
<tr>
<td>03 August 2004</td>
<td>Broadmeadows</td>
<td>G. Dalliston</td>
<td>Suspend Operation of all diesel plant in explosion risk zones classified ERZ1</td>
</tr>
<tr>
<td>03 August 2004</td>
<td>Central Colliery</td>
<td>G. Dalliston</td>
<td>Suspend Operation of all diesel plant in explosion risk zones classified ERZ1</td>
</tr>
<tr>
<td>03 August 2004</td>
<td>Cook Colliery</td>
<td>G. Dalliston</td>
<td>Suspend Operation of all diesel plant in explosion risk zones classified ERZ1</td>
</tr>
<tr>
<td>03 August 2004</td>
<td>Crinum</td>
<td>G. Dalliston</td>
<td>Suspend Operation of all diesel plant in explosion risk zones classified ERZ1</td>
</tr>
<tr>
<td>03 August 2004</td>
<td>Kestrel</td>
<td>G. Dalliston</td>
<td>Suspend Operation of all diesel plant in explosion risk zones classified ERZ1</td>
</tr>
<tr>
<td>03 August 2004</td>
<td>Moranbah North</td>
<td>G. Dalliston</td>
<td>Suspend Operation of all diesel plant in explosion risk zones classified ERZ1</td>
</tr>
<tr>
<td>03 August 2004</td>
<td>Newlands North UG</td>
<td>G. Dalliston</td>
<td>Suspend Operation of all diesel plant in explosion risk zones classified ERZ1</td>
</tr>
<tr>
<td>03 August 2004</td>
<td>Newlands South OC</td>
<td>G. Dalliston</td>
<td>Suspend Operation of all diesel plant in explosion risk zones classified ERZ1</td>
</tr>
<tr>
<td>03 August 2004</td>
<td>North Goonyella</td>
<td>G. Dalliston</td>
<td>Suspend Operation of all diesel plant in explosion risk zones classified ERZ1</td>
</tr>
<tr>
<td>03 August 2004</td>
<td>Oaky Creek No 1</td>
<td>G. Dalliston</td>
<td>Suspend Operation of all diesel plant in explosion risk zones classified ERZ1</td>
</tr>
<tr>
<td>03 August 2004</td>
<td>Oaky North</td>
<td>G. Dalliston</td>
<td>Suspend Operation of all diesel plant in explosion risk zones classified ERZ1</td>
</tr>
<tr>
<td>03 August 2004</td>
<td>Southern Colliery</td>
<td>G. Dalliston</td>
<td>Suspend Operation of all diesel plant in explosion risk zones classified ERZ1</td>
</tr>
<tr>
<td>Date</td>
<td>Location</td>
<td>Author</td>
<td>Event Description</td>
</tr>
<tr>
<td>--------------------</td>
<td>-------------------</td>
<td>--------------------</td>
<td>--------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>8 September 2004</td>
<td>Broadmeadow</td>
<td>ISHR ??</td>
<td>Concerns about Mine Meeting sections 296 to 299 risk zones classified ERZ1</td>
</tr>
<tr>
<td>9 September 2004</td>
<td>North Goonyella</td>
<td>ISHR T. Whyte</td>
<td>No coal mine workers are to work or be within the 300 meter exclusion zone where PUR, Roc Sil or Silent seal is being pumped or injected</td>
</tr>
<tr>
<td>22 October 2004</td>
<td>Newlands OC</td>
<td>ISHR S. Smyth</td>
<td>RPOs and FOPs protective structures</td>
</tr>
<tr>
<td>09 December 2004</td>
<td>North Goonyella</td>
<td>ISHR S. Smyth</td>
<td>Exclusion zone - Silent seal</td>
</tr>
<tr>
<td>4 February 2005</td>
<td>Newlands</td>
<td>ISHR S. Smyth</td>
<td>Suspend dragline 3 operations which require the bucket to be suspended above the ground</td>
</tr>
<tr>
<td>01 March 2005</td>
<td>Cook Colliery</td>
<td>ISHR S. Vaccaneo</td>
<td>Suspend coal mining extraction in 503 panel</td>
</tr>
<tr>
<td>01 June 2005</td>
<td>Newlands Open Cut</td>
<td>ISHR S. Smyth</td>
<td>Rescue Capability/</td>
</tr>
<tr>
<td>02 June 2005</td>
<td>Newlands Open Cut</td>
<td>ISHR G. Dalliston</td>
<td>Suspend mine operations where the controls identified adequately manage all potential emergency situations identified.</td>
</tr>
<tr>
<td>07 August 2005</td>
<td>Foxleigh</td>
<td>ISHR S. Smyth &amp; S. Vaccaneo</td>
<td>Suspend tyre removal and fitting maintenance</td>
</tr>
<tr>
<td>22 September 2005</td>
<td>Moranbah North</td>
<td>ISHR T. Whyte</td>
<td>Suspend mining operations in MG 107 ERZ1 – unacceptable level of risk</td>
</tr>
<tr>
<td>30 September 2005</td>
<td>All Underground Coal Mines</td>
<td>ISHR S. Vaccaneo</td>
<td>Suspend wet slurry dust activities until the ston dust standards are met</td>
</tr>
<tr>
<td>25 October 2005</td>
<td>Broadmeadow</td>
<td>ISHR S. Vaccaneo</td>
<td>Suspend coal mining operations – gas levels emanating from goaf area</td>
</tr>
<tr>
<td>24 January 2006</td>
<td>Broadmeadow</td>
<td>ISHR S Vaccaneo</td>
<td>Suspend re-powering of pump and associated electrics located at 24 cut-thru.</td>
</tr>
<tr>
<td>28 February 2006</td>
<td>Bundoora</td>
<td>ISHR S. Vaccaneo</td>
<td>Verbal suspension – need for training in mine hazard management plans ERZ Controller</td>
</tr>
<tr>
<td>4 March 2006</td>
<td>North Goonyella</td>
<td>ISHR S. Vaccaneo</td>
<td>Removal of Chocks numbered 1 to 5 from the longwall and replace them in the main with passive supports</td>
</tr>
<tr>
<td>12 April 2006</td>
<td>Wilkie Creek</td>
<td>ISHR G. Dalliston</td>
<td>Stop operation of truck as no fuel sight gage</td>
</tr>
<tr>
<td>14 April 2006</td>
<td>Moranbah North</td>
<td>S SHR T. Whyte</td>
<td>Self-contained self-rescuers failing</td>
</tr>
<tr>
<td>02 June 2006</td>
<td>Saraji</td>
<td>ISHR S. Smyth</td>
<td>Dragline boom night time work</td>
</tr>
<tr>
<td>18 December 2006</td>
<td>Broadmeadow</td>
<td>ISHR S. Smyth</td>
<td>PUR product “Wilpur” not approved for use</td>
</tr>
<tr>
<td>2 February 2007</td>
<td>Cook Colliery</td>
<td>ISHR G. Dalliston</td>
<td>Gas readings show considerable levels of H2 and higher hydrocarbons</td>
</tr>
<tr>
<td>11 April 2007</td>
<td>Moranbah North</td>
<td>ISHR S. Smyth</td>
<td>No final investigation report or interim findings into fatality of Jason Blee</td>
</tr>
<tr>
<td>17 April 2007</td>
<td>Oaky Creek Open-cut</td>
<td>ISHR G. Dalliston</td>
<td>Suspend all activities in and near mining excavation until OCE’s appointed. Suspend all mining activities whilst no OCE is present at mine.</td>
</tr>
<tr>
<td>23 February 2008</td>
<td>Cook Colliery</td>
<td>ISHR G. Dalliston</td>
<td>Suspend all operations when Dolly Car not available for operation</td>
</tr>
<tr>
<td>Date</td>
<td>Location</td>
<td>Issuing Authority</td>
<td>Description</td>
</tr>
<tr>
<td>-------------------</td>
<td>-------------------</td>
<td>-------------------</td>
<td>---------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>30 April 2008</td>
<td>Dawson</td>
<td>ISHR G. Dalliston</td>
<td>Suspend all drilling &amp; associated mining activities within 100m of old ventilation shaft for the closed Moura No.2 &amp; 4 U/G mines</td>
</tr>
<tr>
<td>19 September 2008</td>
<td>Blackwater</td>
<td>ISHR G. Dalliston</td>
<td>Suspend all mining activities until system for controlling fatigue risks implemented.</td>
</tr>
<tr>
<td>17 February 2009</td>
<td>Dawson</td>
<td>ISHR G. Dalliston</td>
<td>Suspend all loading of charging and firing of explosives under SOP developed</td>
</tr>
<tr>
<td>24 April 2009</td>
<td>Norwich Park</td>
<td>ISHR G. Dalliston</td>
<td>Suspend activities until training and assessment conducted for the towing of lighting plants</td>
</tr>
<tr>
<td>10 July 2009</td>
<td>Curragh</td>
<td>ISHR S. Smyth</td>
<td>Emergency Response Systems Inadequate</td>
</tr>
<tr>
<td>8 August 2009</td>
<td>Callide</td>
<td>ISHR T. Whyte</td>
<td>8750 Dragline shutdown – Fitness for Work provisions – work hours</td>
</tr>
<tr>
<td>9 February 2010</td>
<td>Carborough Downs</td>
<td>ISHR T. Whyte</td>
<td>Safe operations of shuttle cars with potential to cause electric shock</td>
</tr>
<tr>
<td>19 February 2010</td>
<td>Goonyella Riverside</td>
<td>ISHR T. Whyte</td>
<td>Cease all coal mining operations due to absence of OCE in development of SHMS</td>
</tr>
<tr>
<td>19 February 2010</td>
<td>Norwich Park</td>
<td>ISHR T. Whyte</td>
<td>Cease all mining operations – Fatigue Management Standard</td>
</tr>
<tr>
<td>22 February 2010</td>
<td>Goonyella Riverside</td>
<td>ISHR T. Whyte</td>
<td>Cease all mining operations – Fatigue Management Standard</td>
</tr>
<tr>
<td>16 March 2010</td>
<td>Dawson</td>
<td>SSE T. Mathews</td>
<td>Cessation of firing of blasts in Central Pit areas</td>
</tr>
<tr>
<td>4 January 2010</td>
<td>Peak Downs</td>
<td>ISHR G. Dalliston</td>
<td><strong>Request for prosecution</strong></td>
</tr>
<tr>
<td>07 June 2010</td>
<td>Callide</td>
<td>ISHR C. Gilbert &amp; G. Dalliston</td>
<td>S121 Verbal directive – inadequate / ineffective SHMS &amp; emergency response capabilities</td>
</tr>
<tr>
<td>21 June 2010</td>
<td>Callide</td>
<td>ISHR G. Dalliston</td>
<td>Written directive - inadequate / ineffective SHMS &amp; emergency response capabilities</td>
</tr>
<tr>
<td>28 July 2010</td>
<td>New Oakleigh</td>
<td>ISHR G. Dalliston</td>
<td>Stop the use of all trucks carrying coal or other material without ROPS &amp; FOPS protection</td>
</tr>
<tr>
<td>01 August 2010</td>
<td>Collinsville</td>
<td>ISHR T. Whyte</td>
<td>Suspend operations at the mines train load out facility and associated activities with the loading of trains</td>
</tr>
<tr>
<td>30 September 2010</td>
<td>Curragh</td>
<td>ISHR C. Gilbert</td>
<td>Any coal mine worker who meets maximum of 7 consecutive days work ceases work</td>
</tr>
<tr>
<td>2 December 2010 – Inspection</td>
<td>Carborough downs</td>
<td>ISHR C. Gilbert</td>
<td></td>
</tr>
<tr>
<td>13 December 2010</td>
<td>Yarrabee</td>
<td>ISHR C. Gilbert</td>
<td>Emergency response inadequate</td>
</tr>
<tr>
<td>01 February 2011</td>
<td>Broadmeadow</td>
<td>ISHR T. Whyte</td>
<td></td>
</tr>
<tr>
<td>08 February 2011</td>
<td>Grasstree</td>
<td>ISHR C. Gilbert</td>
<td>Suspend activities of CV005 – submerged in water</td>
</tr>
<tr>
<td>18 February 2011</td>
<td>Dawson</td>
<td>ISHR G. Dalliston</td>
<td>Suspend activities – Production Supervisor Appointment Process</td>
</tr>
<tr>
<td>9 March 2011</td>
<td>Saraji</td>
<td>ISHR C. Gilbert</td>
<td>Verbal Directive - Suspend all blasting activities until mine uses appropriate risk management process</td>
</tr>
</tbody>
</table>
From the above examples we believe that it clearly demonstrates that the ISHRs have used the power of the section 167 directive in a manner which protects coal mine workers and assists the industry in achieving acceptable level of risk. The power and form of the directive should remain as it currently stand.

Queensland Mineworkers have had the right to appoint two of their number, which has subsequently been changed to elect, to represent them in safety matters. They had the powers to stop “all operations in any dangerous place”. These powers were originally under the 1881 Mines Regulation Act and then the 1889 Mines Regulation Act. The latter was changed after the Mount Mulligan Disaster recommendations were implemented and the legislation governing Coal and Metalliferous mines was split in 1925.

From that time (1925) coal mine workers were empowered to appoint “the workman employed in any mine may appoint two of their number or any two persons” (miners Inspectors), this power allowed for the first of the now Industry Safety and Health Representatives, as the then Queensland Colliery
Employees Union of Employees (QCEUE), District Secretary or President could fill such position from time to time.

In 1938 “the Coal Mining Acts Amendment Act of 1938” added a section specifically allowing for the election and appointment of two Miners Check Inspectors by the QCEUE (union), paid by the union and with powers similar to the Miners Inspectors. The power for the Minister to “terminate any such appointment if they no carrying out their duties in a satisfactory manner” was also in the Act.

The number of DUIs able to be elected was changed in 1984 to three. With the introduction of the Coal Mining Safety and Health Act 1999, introduced on 16th March 2001 the title was changed to Industry Safety and Health Representative (ISHR)(s109 CMSHA)

Section 109 of the CMSHA Appointment of industry safety and health representatives
(1) The union may, after a ballot of its members, appoint up to 3 persons to be industry safety and health representatives.
(2) The persons appointed must be holders of a first or second class certificate of competency or a deputy’s certificate of competency.
(3) The appointment must be for 4 years.

and the inclusion that the ISHR must work full time in the capacity of ISHR and not do any other industrial type work was added to the legislation

Section 110 of the CMSHA Industry safety and health representative to work full-time
An industry safety and health representative must work full-time in that capacity performing the functions of an industry safety and health representative.

The power to issue a directive similar to section 166 would at times make the necessity to issue a section 167 and stop work at time less likely on some of the safety and health issues but retainment of 167 directive is a must. To achieve the objects under section 6(a) of the CMSHA and to achieve the obligations under section 39 (1) (c)

6 Objects of Act
The objects of this Act are—
(a) to protect the safety and health of persons at coal mines and persons who may be affected by coal mining operations;

39 Obligations of persons generally
(1) A coal mine worker or other person at a coal mine or a person who may affect the
safety and health of others at a coal mine or as a result of coal mining operations has the following obligations—
(c) to take any other reasonable and necessary course of action to ensure anyone is not exposed to an unacceptable level of risk.

Section 166 of the CMSHA  Directive to reduce risk
(1) If an inspector or inspection officer reasonably believes a risk from coal mining operations may reach an unacceptable level, the inspector or officer may give a directive to any person to take stated corrective or preventative action to prevent the risk reaching an unacceptable level.
(2) The directive may be given orally or by notice.
(3) If the directive is given orally, the person giving the directive must confirm the directive by notice to the person in control of the mine or part of the mine affected by the directive and to the relevant site senior executive.
(4) Failure to comply with subsection (3) does not affect the validity of the directive.

Section 174 of the CMSHA  Directives
(1) If an inspector, inspection officer, or industry safety and health representative has given a directive, the inspector, officer or representative—
   (a) must enter it in the mine record as soon as reasonably practicable after giving it; and
   (b) must state the reason for the directive in the mine record.
(2) A person to whom a directive is given must comply with the directive as soon as reasonably practicable.
   Maximum penalty—800 penalty units or 2 years imprisonment.
(3) The site senior executive must enter in the mine record the action taken to comply with the directive as soon as practicable after the action is taken.
   Maximum penalty—40 penalty units.
(4) The site senior executive must make copies of directives available for inspection by coal mine workers.
   Maximum penalty—40 penalty units.
(5) A directive remains effective until—
   (a) for a directive by an industry safety and health representative—it is withdrawn in writing by the representative or an inspector; or
   (b) for a directive by the chief inspector—it is withdrawn in writing by the chief inspector; or
   (c) for a directive by an inspector other than the chief inspector—it is withdrawn in writing by the inspector or another inspector; or
   (d) for a directive of an inspection officer—it is withdrawn in writing by the inspection officer or an inspector; or
   (e) for a directive by an industry safety and health representative, an inspection officer or an inspector and not otherwise withdrawn—the chief inspector varies or sets aside the directive after reviewing it under subdivision 4; or
   (f) the Industrial Court stays, varies or sets aside the directive.
In fact the proposal to remove the powers of the ISHR’s diminishes the legislation. As shown the ISHR’s has only used the power of the section 167 in justified situations to control the hazards and prevent CMW’s form being affected by mining operations.
15. election process for site safety and health representatives

Do you agree with the proposed change to the election process? If not, what changes do you suggest and why?

_I disagree with the proposal. The election of the SSHR’s should be done by CMW’s as it is their representative for matters of safety and Health. These positions have been in the legislation since 1925 and there are very few issues with CMW’s conducting the election. The right for CMW’s to be able to have dually elected SSHR is how the objectives of the CMHSA are achieved under section 7 of the CMSHA._

<table>
<thead>
<tr>
<th>7 How objects are to be achieved</th>
</tr>
</thead>
<tbody>
<tr>
<td>The objects of this Act are to be achieved by—</td>
</tr>
<tr>
<td>(a) imposing safety and health obligations on persons who operate coal mines or who may affect the safety or health of others at coal mines; and</td>
</tr>
<tr>
<td>(b) providing for safety and health management systems at coal mines to manage risk effectively; and</td>
</tr>
<tr>
<td>(c) making regulations and recognised standards for the coal mining industry to require and promote risk management and control; and</td>
</tr>
<tr>
<td>(d) establishing a safety and health advisory committee to allow the coal mining industry to participate in developing strategies for improving safety and health; and</td>
</tr>
<tr>
<td>(e) providing for safety and health representatives to represent the safety and health interests of coal mine workers; and</td>
</tr>
<tr>
<td>(f) providing for inspectors and other officers to monitor the effectiveness of risk management and control at coal mines, and to take appropriate action to ensure adequate risk management; and</td>
</tr>
<tr>
<td>(g) providing a way for the competencies of persons at coal mines to be assessed and recognised; and</td>
</tr>
<tr>
<td>(h) requiring management structures so that persons may competently supervise the safe operation of coal mines; and</td>
</tr>
<tr>
<td>(i) providing for an appropriate coal mines rescue capability; and</td>
</tr>
<tr>
<td>(j) providing for a satisfactory level of preparedness for emergencies at coal mines; and</td>
</tr>
<tr>
<td>(k) providing for the health assessment of coal mine workers; and</td>
</tr>
<tr>
<td>(l) establishing the office of Commissioner for Mine Safety and Health.</td>
</tr>
</tbody>
</table>

_The position of SSHR’s is to help protect the safety and health of CMW’s from hazards at the predominately created by management. Thus if management is to control the elections of the SSHR this then has the real opportunity to take away the voice of CMW’s over safety and health matters. Which will lead to more deaths in the mining industry._

16. fitness for work (coal mines)
Do you agree with the proposed approach for fitness for work? If not, what changes do you suggest and why?

I disagree with the proposal. Giving the SSE unfettered right to decide a matter for criteria of assessment (Drugs, Fatigue, and Physical or Psychological impairment) without the agreement of the majority of CMW’s is intrusive onto person’s lifestyle choices, health choices and ability to be treated by a doctor of their choice. This is not like a hazard at the mine and need to be treated differently than a mine hazard because of the intrusive nature of this issue. Section 42 of the CMSHR is about controlling the impairment of (Drugs, Fatigue, and Physical or Psychological impairment). These conditions are not only created from work issues but lifestyle issues which some of these lifestyle issues are created by the mining operations. To have an effective and achievable system the must contain the right for the CMW’s to decide the criteria of assessment. If the criteria of assessment is dictated to the CMW’s then this will increase the potential for the hazard of CMW’s hiding any impairment which will increase the risk to themselves and other CMW’s at the mine, thus having the opposite affect to that of which we are trying to achieve.

17. issues related to mine plans for abandoned mines

Do you agree with the proposed approach? If not, what changes do you suggest and why?

I agree with the proposal. If the mine becomes abandoned the receiver should be required to provide plans to the department if the company has not complied.

18. removing the requirement for coal mines to submit mine plans at the end of each calendar year

Do you support removing this requirement? If not, what changes do you suggest and why?

I do not support this proposal. The department of natural resources and mines is required to keep mine plans for all mines in the state. The Gretley disaster in November 1996 will give testament to not change this part of the legislation. 4 men lost their lives due insufficient data kept by the mine and inspectors. This tragedy could have been prevented and changing of this legislation increases the potential of a tragedy of this kind in QLD
19. refocusing the Coal Mine Workers’ Health Scheme

Do you support the refocusing of the Coal Mine Workers’ Health Scheme? If not, what changes do you suggest and why?

- No do not agree.

- The Coal Mining Safety and Health Act 1999 (CMSHA) section 5 explains who the CMSHA applies to—
  - (a) everyone who may affect the safety or health of persons while the persons are at a coal mine; and
  - (b) everyone who may affect the safety or health of persons as a result of coal mining operations; and
  - (c) a person whose safety or health may be affected while at a coal mine or as a result of coal mining operations.

Section 5 of the CMSHA Who does this Act apply to
This Act applies to—
(a) everyone who may affect the safety or health of persons while the persons are at a coal mine; and
(b) everyone who may affect the safety or health of persons as a result of coal mining operations; and
(c) a person whose safety or health may be affected while at a coal mine or as a result of coal mining operations.

- While the objects of the CMSHA in section 6 of the CMSHA are describe as—
  (a) to protect the safety and health of persons at coal mines and persons who may be affected by coal mining operations; and
  (b) to require that the risk of injury or illness to any person resulting from coal mining operations be at an acceptable level; and
  (c) to provide a way of monitoring the effectiveness and administration of provisions relating to safety and health under this Act and other mining legislation.

6 Objects of the CMSHA
The objects of this Act are—
(a) to protect the safety and health of persons at coal mines and persons who may be affected by coal mining operations; and
(b) to require that the risk of injury or illness to any person resulting from coal mining operations be at an acceptable level; and
(c) to provide a way of monitoring the effectiveness and administration of provisions relating to safety and health under this Act and other mining legislation.

- Section 7 of the CMSHA describe how the objects are achieved. One way the objectives are achieved is by providing for the health assessment of coal mine workers.

Section 7 of the CMSHA How objects are to be achieved
The objects of this Act are to be achieved by—
(a) imposing safety and health obligations on persons who operate coal mines or who may affect the safety or health of others at coal mines; and
(b) providing for safety and health management systems at coal mines to manage risk effectively; and
(c) making regulations and recognised standards for the coal mining industry to require and promote risk management and control; and
(d) establishing a safety and health advisory committee to allow the coal mining industry to participate in developing strategies for improving safety and health; and
(e) providing for safety and health representatives to represent the safety and health interests of coal mine workers; and
(f) providing for inspectors and other officers to monitor the effectiveness of risk management and control at coal mines, and to take appropriate action to ensure adequate risk management; and
(g) providing a way for the competencies of persons at coal mines to be assessed and recognised; and
(h) requiring management structures so that persons may competently supervise the safe operation of coal mines; and
(i) providing for an appropriate coal mines rescue capability; and
(j) providing for a satisfactory level of preparedness for emergencies at coal mines; and
(k) providing for the health assessment of coal mine workers; and
(l) establishing the office of Commissioner for Mine Safety and Health.

The Regulatory Impact Statement describes the current position

The Coal Regulation requires all coal mine workers to undergo a health assessment before commencing work (other than for low risk tasks) and at least every five years thereafter. The assessment must be carried out by, or under the supervision of, a Nominated Medical Adviser who is appointed by the employer and is required to furnish the employer and the coal mine worker with a report on the outcome. The report provides a medical assessment of whether the worker is fit, fit with restrictions or not fit to do the specific job for which they are employed.

The Coal Regulation provides that the assessment by the Nominated Medical Adviser is to be carried out in accordance with the instructions and matters in the approved form. The approved form currently includes ‘fitness for work’ components related to a worker’s overall health including cardio-vascular, musculo-skeletal and respiratory systems. Under the regulation, DNRM has ownership of all the medical records generated by the scheme and receives them in hard copy format from the Nominated Medical Advisers and enters them onto a database.

The high levels of employment and movement within the mining industry has meant a significant increase in the number of health assessments received by DNRM over recent years (47,747 health assessments received in 2012 compared to 24,529 in 2009). The continual increase in the number of assessments received has put DNRM under significant administrative strain.

The Regulatory Impact Statement describes the Problems as

The health assessment provides a baseline for subsequent assessments to be compared; however, it is also providing a measure or a noting of lifestyle issues unrelated to mining (such as health affected by smoking, dietary habits, alcohol and drugs) as well as respiratory capacity and musculo-skeletal health which may be affected by mining work over time. A particular concern is many Nominated Medical Advisers appointed by employers have little to no experience or expertise in occupational medicine, nor do they have knowledge of the mine conditions or the coal mining industry. Therefore, without the occupational health experience and detailed knowledge of the employer’s coal mining operations to assess the fitness of a worker against the job demands, many of these practitioners may not be
providing an appropriate medical assessment under the Coal Regulation.

The appeal process is also problematic. Currently under the Coal Mining Safety and Health Regulation 2001, before an employer takes action to terminate or demote a worker when a health assessment shows that a worker is unable to carry out the tasks at a mine without creating an unacceptable level of risk, a worker can undergo a further health assessment at the worker’s expense. This second assessment may conflict with the original assessment. In this case, despite the fact it is the employer appointing the Nominated Medical Adviser to carry out, supervise, and report on health assessments of the coal mine workers at the employer’s mine site, DNRM has, since 2010, been drawn into industrial matters between the employer, the union and/or the worker where there are conflicting health assessment reports. DNRM is then required to appoint a relevant medical specialist to prepare the third and final report to resolve the dispute over conflicting medical opinions.

DNRM is required to arrange and pay for the third medical.

Another current issue is that employers have found a way to avoid paying for their workers’ medicos, as required by the Coal Mining Safety and Health Regulation 2001, by requiring them to have the health assessment (and the generic induction) before being considered for the job.

The provision cannot be enforced because they are not ‘coal mine workers’ by definition until they are employed in the industry.

The Regulatory Impact Statement described the proposed solution

DNRM proposes to return the scheme to its original purpose, which was the health surveillance of those employed in the coal industry to ensure their health was not materially affected by their employment.

DNRM instead should be concerning itself solely with a more simple health surveillance scheme to determine whether the work or the environment worked within are harming the short and long term health of coal mine workers. 104

Consultation Regulatory Impact Statement Queensland’s Mine Safety Framework

The regulator’s concern is with the potential impact of mining work on workers and this is monitored through health surveillance assessments. The proposed health surveillance assessment will address health issues that historically have been affected by health hazards common to the industry, such as noise and dust. The assessment should include work history, a respiratory questionnaire, lung function tests, chest x-ray and audiometry.

In the proposed scheme the decision about whether a coal mine worker is fit for work at a particular mine site will remain a responsibility of the mine’s SSE. The decision will be based on an assessment of the worker by a qualified medical practitioner with demonstrated knowledge of the risks associated with the activities performed in the mining industry, without the specific process for resolving conflicting assessments currently provided in the Coal Mining Safety and Health Regulation 2001. This will be similar to the arrangements in the Mining and Quarrying Safety and Health Regulation 2001 where it is the responsibility of the SSE and DNRM is not directly involved in conflicts over health assessments for fitness. It will also align with the requirement in the Mining and Quarrying Safety and Health Regulation 2001 where the ‘appropriate doctor’ for ‘a health surveillance or health assessment of a person at a mine, means a doctor with demonstrated knowledge of the risks associated with activities performed by the mine’s workers’.

The SSE has an obligation to ensure the safety and health of workers at a mine, including whether they are fit for duty. If someone is a risk to themselves and/or others, the SSE must address that hazard. If the SSE does not, it is akin to any other non-controlled hazard and if necessary, the regulator has powers to address any unacceptable level of risk.

It is proposed that any future disputes about any conflicting health assessment reports provided for the respective parties can be resolved solely under the Fair Work Act 2009.

The purpose of health surveillance is to obtain baseline data of workers new to the industry and periodic data throughout the period the worker is employed in the industry. This data will
enable the regulator to identify factors which have a higher than acceptable association with illness or injury and common problems across the industry or at a particular mine. The regulator can then issue guidance material, directives to address the problems, or consider some other form of regulatory intervention.

DNRM will require through regulation, medical practitioners with appropriate qualifications and/or experience to carry out health surveillance assessments. This will be consistent with the approach in the core mining Regulations requiring appropriate expertise and the approach in the Mining and Quarrying Safety and Health Regulation 2001, requiring an ‘appropriate doctor’ for a health surveillance or health assessment of a person at a mine. The approved form will need to be amended to focus on health surveillance concerns only. DNRM can require that the medical practitioners have experience in the mining industry and if necessary require appropriate training for them in audiometry and spirometry to ensure an appropriate standard of assessment.

Employers can continue to nominate a medical practitioner for the fitness for work assessments, which could be the same medical practitioner as the one conducting the health surveillance assessment. However, the initial baseline assessment will be required only after a worker has started work in the industry, and within three months of commencing work and should not be conducted also for large numbers of prospective employees who may obtain at their own expense an assessment which can cost up to $700, yet never gain employment in the industry.

**The Current Position**

The current position suggest that this is the best practise in the coal mining industry. This Health assessment covers all the major parts of the body that may develop health Issues due the exposes that Coal Mine Workers (CMM’s) are exposed to at work.

**The Problems as described by the Regulatory Impact Statement**

1. The health assessment provides a baseline for subsequent assessments to be compared; however, it is also providing a measure or a noting of lifestyle issues unrelated to mining (such as health affected by smoking, dietary habits, alcohol and drugs) as well as respiratory capacity and musculo-skeletal health which may be affected by mining work over time.

This is incorrect. As described above the Regulatory Impact Statement declares that the health assessments are also measuring the CMW’s lifestyle issues.

In fact lifestyle factors mentioned in this Regulatory Impact Statement are cause by the mining industry with the introduction of extended shifts/rosters, Fly in Fly out and Drive in Drive out operations and as per section 6 Objects of the CMSHA

The objects of this Act are—

(a) to protect the safety and health of persons at coal mines and persons who may be affected by coal mining operations; and
(b) to require that the risk of injury or illness to any person resulting from coal mining operations be at an acceptable level; and
(c) to provide a way of monitoring the effectiveness and administration of provisions relating to safety and health under this Act and other mining legislation.
As in presentation given by Tammy Farrell (Nutrition Consultant for Core Health Services). Ms Farrell has Bachelor of nursing, Registered nurse, GRAD CERT ICU; Diploma of Nutrition. That in Australia that 75% of men and 56% of women are considered overweight or obese and that three out of four miners are (75%) are included. If the mining industry employs 30000 miners this means that 22500 miners are considered overweight or obese. This 1500 more people than the Australian average are considered overweight or obese.

The issues of being overweight or obese has medical implications such as.
- High cholesterol
- High blood pressure
- Psychological issues
- Diabetes.
- Physical effects on musculo-skeletal health.
- Sleep disorders.

It is the lifestyle that is the issue that is correct, but the lifestyle has been created by the mining industry. As the objects of the CMSHA state that everyone who may affect the safety or health of persons as a result of coal mining operations and a person whose safety or health may be affected while at a coal mine or as a result of coal mining operations.

- A new study by Professor Jonathon Shaw has reveals that 269 people develop diabetes every day. We need to changers to the occupational health and safety regulations so it is not allowed for people to sit for more than two hours at a time without a break. Professor Shaw, whose AusDiad study analysed the health of 1100, Australians over 12 years, found the average waistline expanded 5.3 centimetres over the cause of the study. People also self-reported they spent 200 minutes a day sitting down. But electronic device recorded they spent an average 500 minutes sitting down. The incidence of diabetes is five times higher in people who are obese and 2 times higher in those overweight.

With the introduction of extended shifts operators are now sitting in their vehicles for much longer. For an example if a rear dump truck operator is working 12 hour shifts would be sitting for 600 minutes a day, this includes 2x 30 minute crib breaks and 60 minutes for change of shifts. Officer workers are in the same vote as most of them would be working a minimum of 10 hour days of which would be around 500 minutes of sitting down.

This is a health issue that directly affects the CMW's. with the current practise of Coal Mines with extended rosters and shifts the lifestyle has been created by the mining industry. Again the objects of the CMSHA state that everyone who may affect the safety or health of persons as a result of coal mining operations and a person whose safety or health may be affected while at a coal mine or as a result of coal mining operations.

These two examples show why the health assessment that are required under section 46 of the Coal Mining Safety and Health Regulations 2001 (CMSHR) need to continue to monitor what is in the approved form.

Mr Stewart Bell Commissioner for Mine Safety and Health provide in the annual report for the Commissioner for Mine Safety and Health Queensland Mines Inspectorate Annual Performance Report 2012–13, that health is a real issue. With the formation of the Health Improvement and Awareness Committee(HIAC) a Tripartite group that updates the mining industry on the key issues surrounding health issues. Mr Bell goes no to describe the following as health hazards prioritised by HIAC.
- Noise
- Airborne dust
- Mental health
- Musculoskeletal disorders
- Ultraviolet /solar radiation
- Diesel particulate matter

All of the above have been recognised by the mining industry as health hazards of which need to be monitored as per the current system.

### Noise
Noise is a physical hazard that affects mineworkers in all mining sectors in Queensland (underground coal and metalliferous, surface coal and metalliferous, quarries and exploration). The department continues to receive a very high number of notifications of permanent disability each year due to noise-induced hearing loss. Some key areas in mining and quarrying where excess noise exposure occurs are listed below:
- use of handheld power tools, including grinders, compressed air, and pneumatic tools, particularly in a confined space
- work with or near compressors
- work with or near mobile plant and fixed plant
- garnet or water blasting
- drilling, particularly when not in an enclosed cabin
- underground equipment and ancillary plant such as fans

### Airborne dust
Airborne dust is generated by many activities in mining and quarrying. The most prevalent dust exposure for mine workers in the quarrying and metal mining sectors is respirable crystalline silica (RCS), as well as exposure to toxic heavy metal dusts such as lead, cadmium and arsenic in some operations.

Coal mine workers may be exposed to airborne dust while undertaking exploration, mining and processing activities. The health effects associated with exposure to respirable coal dust are well documented. These include coal workers’ pneumoconiosis (CWP), bronchitis and emphysema. The most notable of these is CWP which is caused by cumulative exposure to respirable coal dust. The potential also exists for coal mine workers to be exposed to RCS that may be present in the coal matrix (typically less than 3%) and in more significant quantities in the strata that surrounds the coal seam.

Commissioner for Mine Safety and Health Annual Performance Report 2012–13

Significant work by the department has included a number of dust surveys and analysis of exposure, as well as monitoring being undertaken for RCS exposure in a number of Queensland quarries. The results of this assessment work will help mine management utilise new technology and better work practices to reduce respirable dust exposure.

### Mental health
The March and June 2013 HIAC meetings included presentations and discussions with speakers with background and experience in mental health or psychosocial risk management. The goal of these meetings was to assist with identifying and clarifying the role of the HIAC in coordinating mental health information for the mining industry.

Health effects of shiftwork
Research in other industries has shown that long-term exposure to shift work can have health effects such as cardiovascular, gastrointestinal and endocrine disorders such as insulin resistance and diabetes, and more recently a link to possible occupational cancers through very long-term exposure. The department is monitoring the research and providing information to the HIAC.

### Musculoskeletal disorders
Musculoskeletal disorders as a whole (including soft tissue injuries, nerve or neurological
conditions such as carpal tunnel syndrome, degenerative conditions of the joints and spine, and sprains/strains) form the majority of the lost time injuries reported to the department. A number of initiatives between the department ergonomist and the mining sector have been undertaken, and HIAC has recently formed relationships with QComp and Workcover Queensland to promote good practice.

**Ultraviolet /solar radiation**

Ultraviolet/solar radiation exposure in mining is a concern for mine workers operating in outdoor environments. Leading expert in skin cancer and melanoma, Professor Adèle Green, Deputy Director, the Queensland Institute of Medical Research, presented to the HIAC, along with other speakers from industry. The department previously published Safety Bulletin 93 Sunlight and other ultraviolet radiation risk management and continues to monitor the research and effective risk management of ultraviolet/solar radiation.

**Diesel particulate matter**

Diesel particulate matter (DPM) exposure has been a known health hazard in underground mining for years. Significant work on underground coal includes a DPM working group of the Coal Mining Safety and Health Advisory Committee that meets regularly. Importantly, they have drafted a code of practice for the management of diesel engine exhaust in underground environments and published Safety Bulletin 127 Shift adjustment of the guideline limit for diesel particulate matter which recommends exposure limits for DPM (24 December 2012). In light of the June 2012 decision by the International Agency for Research on Cancer (IARC) to declare DPM an actual human carcinogen, the department is also preparing a guidance note for the management of DPM in underground mining.

Under the current system the approved form allows for the life style factors that are caused by mining operations.

Form approved under section 281 of the Coal Mining Safety and Health Act 1999.

**Nominated Medical Adviser**

- Must review Sections 1, 2 and 3.
- Must assess whether the Health Assessment provides adequate information to make a report on the fitness for duty of the coal mine worker.
- If the coal mine worker has an abnormal colour vision and/or hearing result affecting fitness for duty, a practical test should be arranged.
- Must complete Section 4 - Report on Health Assessment.
- Must provide an explanation of the copy of “Report on Health Assessment” to the Coal Mine Worker and where practical secure the signature of the Coal Mine Worker on the Health Assessment Report:
  - Must provide a copy of “Report on Health Assessment” to:
    - the coal mine worker at the address shown on page 2; and
    - the employer.
  - Must forward a copy of “Health Assessment” and “Report on Health Assessment” to the Health Surveillance Unit of the Department of Natural Resources and Mines.
- Must maintain secure records of the Health Assessment and associated
The Coal Mine Worker is required to answer the following

<table>
<thead>
<tr>
<th>2.3 Health-related History</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Have you previously had a medical examination under this scheme?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(b) If Yes, when was the last examination?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(c) Have you been admitted to a hospital or undergone surgery or an operation?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(d) Have you ever had an illness or operation that has prevented you from undertaking your normal duties for more than two weeks?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(e) Have you ever had an injury that has prevented you from undertaking your normal duties for more than two weeks?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(f) Are you taking any medication?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(g) Do you use hearing protection whilst in noisy areas?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(h) Do you currently smoke, or have you ever smoked?</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

| 2.4 Have you ever suffered from, or do you now suffer from, any of the following? |
|----------------------------------|-----|----|
| (a) Heart disease or heart surgery | Yes | No |
| (b) Chest pain, angina or tightness in chest |
| (c) High blood pressure |
| (d) Asthma, bronchitis or other lung diseases |
| (e) Abnormal shortness of breath or wheezing |
| (f) Deafness, loss of hearing or ear problems |
| (g) Ringing noises in your ears |
| (h) Other hearing difficulties |
| (i) Disease or disorder of the nervous system |
| (j) Episodes of numbness or weakness |
| (k) Psychiatric illness |
| (l) Blackouts, fits or epilepsy |
| (m) RSI, tenosynovitis, over-use syndrome or wrist strain |
| (n) Diabetes |
| (o) Sciatica, lumbago, slipped disc |
| (p) Neck injury or whiplash |
| (q) Back or neck pain which has prevented you from undertaking full duties |
| (r) Knee problems, cartilage injury |
| (s) Fractures or dislocations |
| (t) Shoulder, knee or any other joint injury |
| (u) Hernia |
| (v) Arthritis or rheumatism |
| (w) Dermatitis, eczema, or skin problems |
| (x) Allergies |
2.5 Previous vaccinations and blood tests

(a) When were you last immunised against Tetanus?  Year 
(b) When were you last immunised against Hepatitis A?  Year 
(c) When were you last immunised against Hepatitis B?  Year 
(d) When was your last cholesterol test?  Year 

Examining Medical Officer’s comments on Questions 2.4 and 2.5 

Section 3 – Clinical Findings – Examining Medical Officer to complete

<table>
<thead>
<tr>
<th>3.0</th>
<th>ID Check</th>
<th>Type</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>3.1</th>
<th>Height</th>
<th>cm</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>3.2</th>
<th>Weight</th>
<th>kg</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>3.3</th>
<th>Vision</th>
<th>Visual acuity</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Uncorrected</td>
<td>Corrected</td>
</tr>
<tr>
<td>(a)-(b)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(c)-(d)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>3.4</th>
<th>Visual fields (by)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Abnormal</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>3.5</th>
<th>Ishihara (if abnormal, the NMA to arrange practical test)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Abnormal</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>3.6</th>
<th>Work-related colour vision practical test (if Ishihara test abnormal)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Unsatisfactory</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>3.7</th>
<th>Hearing</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Audiogram</td>
</tr>
<tr>
<td>(a)-(h)</td>
<td>Left</td>
</tr>
<tr>
<td>(i)-(p)</td>
<td>Right</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>(q)</th>
<th>Time since last high noise exposure?</th>
<th>hours</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>(r)</th>
<th>Audiogram result</th>
<th>Abnormal</th>
<th>Normal</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>(s)</th>
<th>Were hearing aids used</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>(t)</th>
<th>Auditory canals</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>(u)</th>
<th>Tympanic membranes</th>
</tr>
</thead>
</table>
Examining Medical Officer’s comments on Questions 3.1 to 3.7 (Note any abnormality, including past noise exposure, workers’ compensation claims and tinnitus)

3.8 Cardiovascular System

<table>
<thead>
<tr>
<th></th>
<th>Systolic</th>
<th>Diastolic</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a)</td>
<td>Blood Pressure</td>
<td></td>
</tr>
<tr>
<td>(b)</td>
<td>(Repeated if necessary)</td>
<td></td>
</tr>
<tr>
<td>(c)</td>
<td>Pulse rate</td>
<td>/min</td>
</tr>
<tr>
<td>(d)</td>
<td>Peripheral pulses</td>
<td>Absent ✅ Present ✅</td>
</tr>
<tr>
<td>(e)</td>
<td>Heart sounds</td>
<td>Abnormal ✅ Normal ✅</td>
</tr>
<tr>
<td>(f)</td>
<td>Evidence of cardiac failure or oedema</td>
<td>Yes ☑ No ☐</td>
</tr>
<tr>
<td>(g)</td>
<td>Varicose veins</td>
<td>Yes ☑ No ☐</td>
</tr>
<tr>
<td>(h)</td>
<td>E.C.G. (if indicated by some abnormality)</td>
<td>Abnormal ✅ Normal ✅</td>
</tr>
</tbody>
</table>

Examining Medical Officer’s comments on Questions 3.8

3.9 Respiratory system

<table>
<thead>
<tr>
<th>Litres</th>
<th>Observed</th>
<th>Predicted</th>
<th>Observed/Predicted %</th>
</tr>
</thead>
<tbody>
<tr>
<td>Forced exp. Vol. 1 sec- FEV₁</td>
<td>(b)</td>
<td>(e)</td>
<td>(h)</td>
</tr>
<tr>
<td>Forced vital capacity - FVC</td>
<td>(c)</td>
<td>(f)</td>
<td>(i)</td>
</tr>
<tr>
<td>FEV₁/FVC%</td>
<td>(d)</td>
<td>(g)</td>
<td></td>
</tr>
</tbody>
</table>

3.10 Spirometry (abnormal includes FEV₁/FVC<70%)

<table>
<thead>
<tr>
<th></th>
<th>Abnormal ✅ Normal ✅</th>
</tr>
</thead>
</table>

3.11 Auscultation of chest

<table>
<thead>
<tr>
<th></th>
<th>Abnormal ✅ Normal ✅</th>
</tr>
</thead>
</table>

3.12 (a) Was chest x-ray undertaken (as advised by employer)

<table>
<thead>
<tr>
<th></th>
<th>Yes ☑ No ☐</th>
</tr>
</thead>
</table>

(b) Date x-ray was taken

<p>| |</p>
<table>
<thead>
<tr>
<th></th>
</tr>
</thead>
</table>

(c) Quality of film?

<table>
<thead>
<tr>
<th></th>
<th>Unsatisfactory ✅ Satisfactory ✅</th>
</tr>
</thead>
</table>

(d) What was the result? (Also attach x-ray film to this Report)

<table>
<thead>
<tr>
<th></th>
<th>Abnormal ✅ Normal ✅</th>
</tr>
</thead>
</table>

3.14 Urinalysis and Blood Sugar

<table>
<thead>
<tr>
<th></th>
<th>Present</th>
<th>Absent</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a)</td>
<td>Sugar</td>
<td></td>
</tr>
<tr>
<td>(b)</td>
<td>Protein/albumin</td>
<td></td>
</tr>
<tr>
<td>(c)</td>
<td>Blood</td>
<td></td>
</tr>
<tr>
<td>(d)</td>
<td>Blood sugar analysis (optional)</td>
<td></td>
</tr>
</tbody>
</table>

3.15 Abdomen

<table>
<thead>
<tr>
<th></th>
<th>Abnormal</th>
<th>Normal</th>
</tr>
</thead>
</table>

(a) **Lower back**

<p>| (i) | Range of movement |       |
| (ii) | Posture and gait |       |
| (iii) | Straight leg raising |       |</p>
<table>
<thead>
<tr>
<th>(b) Neck – range of movement</th>
<th>(a) Abdominal scars</th>
</tr>
</thead>
<tbody>
<tr>
<td>(c) Joint movements</td>
<td>(b) Abdominal mass</td>
</tr>
<tr>
<td>(i) Upper Limbs</td>
<td>(c) Hernia</td>
</tr>
<tr>
<td>(ii) Lower Limbs</td>
<td></td>
</tr>
<tr>
<td>(iii) Reflexes</td>
<td></td>
</tr>
</tbody>
</table>

### 3.16 Skin
- (a) Eczema, dermatitis or allergy
- (b) Skin cancer or other abnormality

Examining Medical Officer’s comments on Questions 3.9 to 3.16 (where applicable include result of additional testing)

---

#### 3.17 Is the coal mine worker’s fitness for duty is likely to be affected by any of the following?

<table>
<thead>
<tr>
<th>(a) Dietary Habits</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>(b) Exercise routine</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(c) Stress Level</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(d) Alcohol Consumption</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(e) Drugs or medication not prescribed by a doctor</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

#### 3.18 Is there any reason why the coal mine worker may be not fit for duty in relation to work:

<table>
<thead>
<tr>
<th>(a) As an operator of (or working around) around heavy vehicles</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>(b) Underground (including use of self-rescue breathing devices and escape)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(c) Shift work</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(d) Performing heavy manual handling</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(e) In wet or muddy conditions</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(f) In dusty conditions</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
(g) At height or on ladders
(h) In confined spaces
(i) While wearing safety footwear or other personal protective equipment such as ear plugs, glasses and respirators
(j) Another capacity – define

<table>
<thead>
<tr>
<th>Examining Medical Officer’s comments on Questions 3.17 and 3.18</th>
</tr>
</thead>
<tbody>
<tr>
<td>- Provide a means of early identification of those conditions or behaviours which may inhibit employees abilities to perform their specified duties without risk to themselves or others in the workplace;</td>
</tr>
<tr>
<td>- Provide over the medium and long term, extensive and reliable health and lifestyle information; and</td>
</tr>
<tr>
<td>- Provide a heightened employee and employer awareness of the individual and collective benefits of workplace health screening and monitoring.</td>
</tr>
</tbody>
</table>

As can be clearly seen the current health assessment covers any health hazard that has the potential to be created from Coal Mining Operations to meet the objectives of the CMSHA.

Prior to health assessments being added to the CMSHR, health assessments were covered under the Queensland Coal Industry Employees Health Order 1993 which replaced the Miners Health Scheme 1982. The Coal Industry Employees Health Scheme, administered and applied in accordance with the regulation, guideline and standards, will:

- Ensure entrants to the coal mining industry are fit to undertake their specified duties without risk to themselves or others in the workplace;
- Ensure existing employees in the coal mining industry are fit to continue to perform their specified duties without risk to themselves or others in the workplace;
- Provide a means of early identification of those conditions or behaviours which may inhibit employees abilities to perform their specified duties without risk to themselves or others in the workplace;
- Provide over the medium and long term, extensive and reliable health and lifestyle information; and
- Provide a heightened employee and employer awareness of the individual and collective benefits of workplace health screening and monitoring.

As can be seen there is no change from the current practise to what was required in the past. Form B is very similar if not the same as that of the current Form approved under section 281 of the Coal Mining Safety and Health Act 1999.
**FORM B**

**Coal Industry Employees’ Health Scheme**

**Periodic Health Assessment**

<table>
<thead>
<tr>
<th>Name of Nominated Medical Adviser</th>
<th>Mine (e.g., Southern Colliery)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proposed Position (e.g., Production or Engineering)</td>
<td>Contractor (if applicable)</td>
</tr>
<tr>
<td>Is employee to work underground?</td>
<td>Is employee being assessed for Mines Rescue?</td>
</tr>
<tr>
<td>Yes ☐ No ☐</td>
<td>Yes ☐ No ☐</td>
</tr>
</tbody>
</table>

**Section 1 - Employee to complete**

**Employee’s Details**

<table>
<thead>
<tr>
<th>Family Name</th>
<th>Given Name(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Date of Birth</th>
<th>/ /</th>
</tr>
</thead>
</table>

**Medical History**

1. When did you last have a Coal Industry Employees’ Health Assessment?
   
<table>
<thead>
<tr>
<th>Date</th>
<th>/ /</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mine</td>
<td></td>
</tr>
</tbody>
</table>

2. Have you received any medical advice, medical treatment or been an inpatient of a hospital?
   
   | Yes ☐ No ☐ |
   | Examinining Medical Officer’s comments | |

3. Have you ever had an illness, injury or operation which kept you off work for more than two weeks?
   
   | Yes ☐ No ☐ |
   | Examinining Medical Officer’s comments | |

4. Are you taking any medication?
   
   | Yes ☐ No ☐ |
   | Examinining Medical Officer’s comments | |

5. Have you any recurring chest pains?
   
   | Yes ☐ No ☐ |
   | Examinining Medical Officer’s comments | |

6. Do you currently smoke?
   
   | Yes ☐ No ☐ |
   | At what age did you start? | |
   | What do you smoke? | |
   | How much (many) per day? | |
   | Examinining Medical Officer’s comments | |

7. Have you ceased smoking since your last Health Assessment?
   
   | Yes ☐ No ☐ |
   | Examinining Medical Officer’s comments | |

8. Have you ever noticed ringing noises in your ear(s)?
   
   | Yes ☐ No ☐ |
   | Examinining Medical Officer’s comments | |

9. Do you have difficulty hearing a conversation or other hearing difficulties?
   
   | Yes ☐ No ☐ |
   | Examinining Medical Officer’s comments | |

Page: 1(of 5)
Section 1 - (Continued)

10. Do you wear hearing protection in noisy areas?
   Yes [ ]  No [ ]
   Plugs [ ]  Muffs [ ]  Both [ ]

Examing Medical Officer's comments

11. Have you suffered from dermatitis or a skin problem?
   Yes [ ]  No [ ]

Examing Medical Officer's comments

12. Have you had any back or neck pain that has kept you off work?
   Yes [ ]  No [ ]

Examing Medical Officer's comments

13. Have you ever had a shoulder, knee or any other joint injury?
   Yes [ ]  No [ ]

Examing Medical Officer's comments

14. When were you last immunised against Tetanus?
   Year [ ]  Comment [ ]

15. Do you suffer from any allergic reaction
   (e.g. respiratory allergy or drug reaction?)
   Yes [ ]  No [ ]

Examing Medical Officer's comments

16. Are you aware of any reason that would prevent you from working:
   - At heights or on ladders?
     Yes [ ]  No [ ]
   - In confined spaces?
     Yes [ ]  No [ ]
   - Underground?
     Yes [ ]  No [ ]
   - In wet conditions?
     Yes [ ]  No [ ]
   - In dusty conditions?
     Yes [ ]  No [ ]
   - Where protective equipment is required?
     Yes [ ]  No [ ]

Examing Medical Officer's comments

FORM B

I certify to the best of my knowledge the above information is true and correct.

Employee's signature [ ]

Date [ ]

Section 2 (Optional) - Examining Medical Officer and Employee to complete

17. Determining the Miner’s Lifestyle

The answers to the following questions, are voluntary and intended to assist the doctor in improving your health.

17.1 Alcohol intake

Number of standard drinks per week:
   now [ ]  past [ ]
   A standard drink = 10g alcohol
   - 1 x 10 oz regular beer
   - 1 x glass wine
   - 1 x nip spirit

Examing Medical Officer's comments

17.2 Dietary habits

Examing Medical Officer's comments

17.3 Exercise routine

Examing Medical Officer's comments

17.4 Stress level

Examing Medical Officer's comments
FORM B

Section 3 - Examining Medical Officer to complete

Clinical Findings

18. Height
   cm

19. Weight
   kg

20. Vision

   Visual acuity
   Uncorrected
      Right  Left
   Corrected
      Right  Left

20.1 Distant
   6/6  6/6

20.2 Near
   N  N

20.3
   6/6  6/6

20.4
   N  N

21. Hearing

   Audiogram
   Hertz
   500  1000  1500  2000  3000  4000  6000  8000
   Left
   Right

21.1 Audiogram
   □ Outside Standard  □ Inside Standard - as defined in Medical Standard

21.2 Auditory canals
   □ Abnormal  □ Normal

21.3 Tympanic membranes
   □ Abnormal  □ Normal

Comment on any abnormality, including past noise exposure, Worker’s Compensation claims, tinnitus, if the audiogram is abnormal.

22 Cardiovascular System

22.1 Blood Pressure
   □  □

22.3 Repeated (if necessary)
   □

22.5 Pulse rate
   □  □  □

22.6 The following are only required if indicated by history or examination

22.5 Heart sounds
   □ Abnormal  □ Normal

22.7 Evidence of cardiac failure, oedema
   □ Yes  □ No

22.8 Varicose Veins
   □ Yes  □ No

22.9 Peripheral pulses
   □ Present  □ Absent

22.10 E.C.G.
   □ Abnormal  □ Normal

22.11 Not Indicated

Comment on any abnormality

Page: 3 (of 5)
23. Respiratory system

<table>
<thead>
<tr>
<th>Litres</th>
<th>Observed</th>
<th>Predicted</th>
<th>Observed/Predicted %</th>
</tr>
</thead>
<tbody>
<tr>
<td>Forced exp. vol, 1 sec. - FEV₁</td>
<td>23.1</td>
<td>23.4</td>
<td>23.16</td>
</tr>
<tr>
<td>Forced vital capacity - FVC</td>
<td>23.2</td>
<td>23.5</td>
<td>23.17</td>
</tr>
<tr>
<td>FEV₁/FVC %</td>
<td>23.3</td>
<td>23.6</td>
<td></td>
</tr>
</tbody>
</table>

23.7 Spirometry

- Abnormal
- Normal - as defined in Medical Standard

23.8 Chest X-ray

- No
- Yes

23.9 When was it taken? / /

23.10 Quality of film?

- Unsatisfactory
- Satisfactory

23.11 What was the result?

- Abnormal
- Normal

The following are only required if indicated by history or abnormal results of investigations

- Air entry
- Wheeze at rest
- Wheeze on forced breathing
- Breath sounds

24. Uralalysis

- Sugar
  - Present
  - Absent

24.2 Protein/albumin

- Present
- Absent

24.3 Blood

- Present
- Absent

Comment on any abnormality

25. Blood Sugar Analysis (use finger prick test)

- Normal
- Abnormal

Comment on any abnormality

26. Abdomen

The following are only required if indicated by history

- Abdominal scars
  - Yes
  - No

- Abdominal mass
  - Yes
  - No

- Hernia
  - Yes
  - No

Comment on any abnormality
FORM B

Section 3 - (Continued)

27. Musculo-skeletal system
   Spine
   27.1 Mobility
   27.2 Posture and gait
   Upper limbs
   27.3 Joint Movements
   Lower limbs
   27.4 Joint movements
   27.5 Reflexes

Comment on any abnormality

28. Skin
   28.1 Evidence of eczema, dermatitis, allergy
   28.2 Evidence of skin cancer or other abnormality

Comment on any abnormality

Section 4 - Nominated Medical Adviser to complete

Recommendation to Employee

Measures recommended to improve the employee's health

Signed

Nominated Medical Adviser's name and address (stamp required)

Section 5 - Queensland Coal Board to complete

ILO Pneumoconiosis classification

Page 5 (of 5)
FORM B.1
Coal Industry Employees' Health Scheme
Report on Periodic Health Assessment

Nominated Medical Adviser to complete.

Employee's Details
Family Name
Given Name (s)

Date of Birth
/
/

Mine
Contractor

Examination Details
Date of Examination
/
/

Current position (eg. Production or Engineering)

Underground
Yes No

☐ The employee is fit to continue in any position
☐ The employee is fit to continue in his/her current position
☐ The employee is fit for the position of ........................................ as required by the Coal Mining Act
☐ The employee has a condition which results in the following restrictions.
(Use categories of restrictions in the Instruction Manual)

The duration of the restriction is

Is a further review necessary? No Yes When?

Was a Chest X-ray taken? No Yes Date of X-ray

For Mines Rescue Use Only
☐ The employee has no condition which precludes participation in Mines Rescue activities.
(See Medical Guidelines for Mines Rescue)

Signed

Mines Rescue Station

Nominated Medical Adviser's name and address (stamp required)

Distribution of Form B.1
(a) Original to Mine Manager
(b) Copy to Dept Mines & Energy (Health Surveillance Unit)
(c) Copy to Employee (if requested)
(d) Copy to Employing Contractor (if applicable)
(e) Copy to Mines Rescue Station (if applicable)
The Problems

The Regulatory Impact Statement describes the problems as

2.

A particular concern is many Nominated Medical Advisers appointed by employers have little to no experience or expertise in occupational medicine, nor do they have knowledge of the mine conditions or the coal mining industry. Therefore, without the occupational health experience and detailed knowledge of the employer’s coal mining operations to assess the fitness of a worker against the job demands, many of these practitioners may not be providing an appropriate medical assessment under the Coal Regulation.

This is correct. Under section 45 of the CMSAR the employer must appoint in writing a Nominated Medical Advisor (NMA).

Section 45 of the CMSHR Appointment of nominated medical adviser
(1) Each employer must—
(a) appoint, in writing, a doctor (the nominated medical adviser) to carry out, supervise, and report on, health assessments under this division for the employer’s coal mine workers; and
(b) as soon as practicable after making the appointment, give the chief executive a notice stating the nominated medical adviser’s name and contact details; and
(c) as soon as practicable after the appointment ends, give the chief executive a notice stating when the appointment ended.
(2) The employer must include in the contract appointing the nominated medical adviser an obligation on the adviser to discuss, and give advice about, appropriate duties for the worker, under subsection (3).
(3) The discussions must be held with, and the advice given to, the employer and coal mine worker or the worker’s representative.
(4) The employer must also include in the contract an obligation on the nominated medical adviser, if asked by a coal mine worker, to discuss the worker’s health assessment with another doctor nominated by the worker.

Subdivision 3 Health assessments and health

There is no requirement of the NMA to have a sound knowledge of the mining industry or the legislation to which they must comply with.

Under the Queensland Coal Industry Employees Health Order 1993 the requirement for an NMA was;
This has led to lack of control with the quality of health assessment.

3.

(a) The appeal process is also problematic. Currently under the Coal Mining Safety and Health Regulation 2001, before an employer takes action to terminate or demote a worker when a health assessment shows that a worker is unable to carry out the tasks at a mine without creating an unacceptable level of risk, a worker can undergo a further health assessment at the worker's expense. This second assessment may conflict with the original assessment.

(b) In this case, despite the fact it is the employer appointing the Nominated Medical Adviser to carry out, supervise, and report on health assessments of the coal mine workers at the employer’s mine site, DNRM has, since 2010, been drawn into industrial matters between the employer, the union and/or the worker where there are conflicting health assessment reports. DNRM is then required to appoint a relevant medical specialist to prepare the third and final report to resolve the dispute over conflicting medical opinions.

(c) DNRM is required to arrange and pay for the third medical.

(a) The appeal process is not problematic. Everyone is entitled to the right of appeal.

(b) This is due to the regulators not regulating and the reduction of legislation from Queensland Coal Industry Employees Health Order 1993 the requirement to the current CMSHR. Under the Queensland Coal Industry Employees Health Order 1993 the requirement was as per the following.
Part 2 - Nominated Medical Adviser

Recommendation

8. A manager must recommend to the Chief Executive the appointment of one or more Nominated Medical Advisers to undertake or authorise health assessment of entrants to, or employees of, the mine for which the manager is responsible.

Approval

9. (1) The Chief Executive, acting on appropriate advice, is to determine the suitability of a recommended Nominated Medical Adviser, and is to notify in writing the manager and the recommended Nominated Medical Adviser, whether or not the recommended Nominated Medical Adviser has been approved by the Board.

(2) A Nominated Medical Adviser may be approved to undertake or authorise health assessment in respect of more than one mine.

Currency of Approval

10. (1) An approval of a Nominated Medical Adviser notified in accordance with subsection 9(1) is to remain current for a period specified by the Chief Executive commencing from the date of notification.

(2) A manager may recommend to the Chief Executive the renewal of the approval of a Nominated Medical Adviser.

(3) The Chief Executive may revoke an approval of a Nominated Medical Adviser notified in accordance with subsection 9(1), if the Chief Executive is satisfied, because of:

(a) proved misbehaviour, or
(b) proved incompetence in the performance of the work required of a Nominated Medical Adviser, or
(c) physical or mental infirmity; or
(d) a material change in circumstances which has resulted in a Nominated Medical Adviser no longer satisfying the requirements for appointment as a Nominated Medical Adviser specified in section 11;

that a Nominated Medical Adviser is not capable of properly performing the duties of the position, or is otherwise not a fit and proper person to undertake the duties of the position.
Interpretation

3. In this Regulation:

“Chief Executive” means Director-General of Department of Mines and Energy;

With downgrading of the regulations in the current legislation has led to these conflicts. The DNRM and Unions have been drawn into industrial matters by the employer’s and NMA's

For example;
(a) In the Supreme Court Queensland ruling in the case of Mattson verse Parker. The court ruled:

It follows that Dr Parker as NMA did not carry out his part of the appellants Health Assessment in accordance with instructions and covering the matters, in the approved form as section 46(3) regulation required. The appeal must be allowed and the order of the primary judge and decision of Dr Parker set aside.

(b) In a letter to Mr Andrew Vickers from Mr Peter Minahan Chief Inspector of Mines, clearly shows the underhanded exploits both the employer's and NMA's take.

Dear Andrew

I refer to your letter dated 6 December 2004, in which you advised of your concerns that the North Goonyella Mine had personal medical information about a Mr Mick Duggan.

I advise that the matter has been investigated and as a result the Chief Inspector instructed the Site Senior Executive (SSE) of the mine to personally ensure that the functional capacity evaluation information was removed from the mine files and either destroyed or returned to the nominated medical advisor.

This work has subsequently been completed and confirmed in writing by the SSE. The SSE also advised that the information provided was only a few pages of a larger report and it was provided without any request from the company. They also advised that Mr Duggan brought a full copy to the mine during discussions with staff on appropriate rehabilitation duties.

The Chief Inspector contacted Dr Parker and also his staff in relation to this matter and the requirements of section 52 of the regulation. Dr Parker advised that it was his understanding that Mr Duggan had provided the full report to the mine rehabilitation coordinator.

Further investigation found this not to be correct.

The Chief Inspector has written to all nominated medical advisors and SSEs bringing their attention to this type of incident and to take action to ensure it does not recur. I include a copy of this document for your information.

Peter Minahan
Chief Inspector of Mines

(c) In Mine Record Entry Mr John Sleigh found that the mine was incorrectly applying section 47 of the CMSHR, after several months of trying to negotiate with the SSE.

I have received a referral under Section 121 of the Coal Mining Safety and Health Act from ISHR
Jason
Hill. He had not been given a response on a matter he raised with Paul Hemburrow, the SSE at Blackwater Mine.
The matter relates to payment of a medical bill for an employee who was asked by a Nominated Medical Advisor to attend a specialist for a supplementary examination.
Section 47(3) of the Regulation provides that medical examinations must be arranged and paid for by the employer -
- before the person is employed as a coal mine worker
- periodically, as decided by the nominated medical adviser, but at least once every 5 years
- periodically, as decided by the nominated medical adviser, if the adviser considers the assessment is necessary after being given notice by the employer of any appreciable increase in the level of risk to a coal mine worker at the mine.
I have been advised by the SSE that the medical was a periodical one. In that case, the employer is required to pay for the medical.
I mentioned that ISHR has generally followed the correct process. In fact, he has not provided me with the response of the SSE to his concerns. I do not consider the SSE's failure to meet a deadline of Friday 2 August to a communication dated Monday 29 July to be an indication that the site senior executive is not taking the action necessary to make the safety and health management system adequate and effective.

John Sleigh
Inspector of Mines
Central Region

4.
Another current issue is that employers have found a way to avoid paying for their workers’ medicals, as required by the Coal Mining Safety and Health Regulation 2001, by requiring them to have the health assessment (and the generic induction) before being considered for the job. The provision cannot be enforced because they are not ‘coal mine workers’ by definition until they are employed in the industry.

This is true. But again comes from regulators not regulating and the CMSHR regarding health assessments being diminished from the previous Queensland Coal Industry Employees Health Order 1993. As stated the number of health assessments in 2013 47747 compared to 24529 health assessments in 2009. This due to the lack of control over the NMA as in the approved form under section 281 of the Coal Mining Safety and Health Act 1999 section 1 the Employer is to complete. If section is not completed by the employer then the health assessment is not legitimate and cannot be processed.

As evidence clearly states that the health assessment has not changed. It is the diminishment of the current legislation and the lack of enforcement by the regulators that’s has allowed health assessments to become an issue and allowing the issue to be drawn into industrial courts.

The solution
The Regulatory Impact Statement describes the problems as;

DNRM proposes to return the scheme to its original purpose, which was the health surveillance of those employed in the coal industry to ensure their health was not materially affected by their employment.

DNRM instead should be concerning itself solely with a more simple health surveillance
scheme to determine whether the work or the environment worked within are harming the short and long term health of coal mine workers. 104

Consultation Regulatory Impact Statement Queensland’s Mine Safety Framework

The regulator’s concern is with the potential impact of mining work on workers and this is monitored through health surveillance assessments. The proposed health surveillance assessment will address health issues that historically have been affected by health hazards common to the industry, such as noise and dust. The assessment should include work history, a respiratory questionnaire, lung function tests, chest x-ray and audiometry.

In the proposed scheme the decision about whether a coal mine worker is fit for work at a particular mine site will remain a responsibility of the mine’s SSE. The decision will be based on an assessment of the worker by a qualified medical practitioner with demonstrated knowledge of risks associated with the activities performed in the mining industry, without the specific process for resolving conflicting assessments currently provided in the Coal Mining Safety and Health Regulation 2001. This will be similar to the arrangements in the Mining and Quarrying Safety and Health Regulation 2001 where it is the responsibility of the SSE and DNRM is not directly involved in conflicts over health assessments for fitness. It will also align with the requirement in the Mining and Quarrying Safety and Health Regulation 2001 where the ‘appropriate doctor’ for ‘a health surveillance or health assessment of a person at a mine, means a doctor with demonstrated knowledge of the risks associated with activities performed by the mine’s workers’.

The SSE has an obligation to ensure the safety and health of workers at a mine, including whether they are fit for duty. If someone is a risk to themselves and/or others, the SSE must address that hazard. If the SSE does not, it is akin to any other non-controlled hazard and if necessary, the regulator has powers to address any unacceptable level of risk.

It is proposed that any future disputes about any conflicting health assessment reports provided for the respective parties can be resolved solely under the Fair Work Act 2009.

The purpose of health surveillance is to obtain baseline data of workers new to the industry and periodic data throughout the period the worker is employed in the industry. This data will enable the regulator to identify factors which have a higher than acceptable association with illness or injury and common problems across the industry or at a particular mine. The regulator can then issue guidance material, directives to address the problems, or consider some other form of regulatory intervention.

DNRM will require through regulation, medical practitioners with appropriate qualifications and/or experience to carry out health surveillance assessments. This will be consistent with the approach in the core mining Regulations requiring appropriate expertise and the approach in the Mining and Quarrying Safety and Health Regulation 2001, requiring an ‘appropriate doctor’ for a health surveillance or health assessment of a person at a mine.

The approved form will need to be amended to focus on health surveillance concerns only. DNRM can require that the medical practitioners have experience in the mining industry and if necessary require appropriate training for them in audiometry and spirometry to ensure an appropriate standard of assessment.

Employers can continue to nominate a medical practitioner for the fitness for work assessments, which could be the same medical practitioner as the one conducting the health surveillance assessment. However, the initial baseline assessment will be required only after a worker has started work in the industry, and within three months.
of commencing work and should not be conducted also for large numbers of prospective employees who may obtain at their own expense an assessment which can cost up to $700, yet never gain employment in the industry.

The health assessment has not change so there is no need to change it. What is required is to go back to the previous Queensland Coal Industry Employees Health Order 1993, with regard to the requirements of an appointed NMA.

Requirements for Appointment as Nominated Medical Adviser

11. A Nominated Medical Adviser must have:

   (a) a sound knowledge of the Coal Industry Employees' Health Scheme;

   (b) an awareness of relevant legislation relating to safety and health in the coal industry;

   (c) a sound knowledge of the operations, activities and tasks performed and the environment at the relevant mine;

   (d) a willingness to provide advice on appropriate duties to be undertaken by an employee in discussions with employer and employee representatives;

   (e) an interest in occupational health and health maintenance programs; and

   (f) suitable equipment and facilities.
If these requirements for the appointment of a NMA are reinstated then all the related issues will be resolved.

20. increasing the number of industry safety and health representatives

Do you agree with the proposal under consideration to increase the number to four? If not, what changes do you suggest and why?
I agree with the proposal. With the increase in CMW’s and Coal Mines in the industry I am of a belief that this growth warrants an increase in ISHR’s to be able to cover this increase

21. manufacturers and suppliers to inform the Mines Inspectorate in the event of a hazardous aspect or defect in equipment supplied

Do you agree with the proposal manufacturers and suppliers should have obligations to inform the inspectorate of a hazardous aspect or defect in their equipment. This is a must.

22. implementing Ombudsman recommendations about a confidential complaints system.

Do you agree with the proposal to develop a confidential complaint system similar to that in the aviation industry? If not, what changes do you suggest and why?

I agree with the proposal. Confidentiality is important when making a complaint regarding safety and health without fear of reprisals. The proposed system must be developed in consultation with the CMSHAC.

Do you have any other suggestions regarding existing legislation that if amended or deleted would improve the safety and health of mineworkers? If the

If the industry was serious about reviewing the legislation concerning the health and safety of CMW’s them the following would be considered.

1. Under section 35 of the CMSHR for managing emergencies, allows the mine to identify and control the risk of emergencies. Open cut mines take this to the extreme by relying on public services e.g QAS and QFRS, or will use trained CMW’s that are off site on call if numbers are below what the SSHMS ask for. Some mines don’t commit at all.

Section 35 of the CMSHR General
(1) A coal mine’s safety and health management system must provide for managing emergencies at the mine.
(2) The system must include provision for the following—
(a) identifying, by risk assessment, potential emergency situations;
(b) minimising risks associated with potential emergency situations;
(c) carrying out aided rescue and self-escape of persons from the mine in an emergency;
(d) carrying out emergency exercises, including testing the effectiveness of emergency management procedures and the readiness and fitness of equipment for use in an emergency;
(e) auditing and reviewing the emergency exercises;
(f) if the mine is a surface mine—involving an open-cut examiner for the mine in—
(i) developing and testing the emergency management procedures for activities, including mining activities, in and around the surface excavation; and
(ii) auditing the documentation for the procedures;
(g) if the mine is an underground mine—involving an ERZ controller for the mine in—
(i) developing and testing the emergency management procedures for explosion risk zones; and
(ii) auditing the documentation for the procedures.

This leaves a real hazard in the open cut mines. The legislation needs to be more prescriptive around dealing with emergencies at a mine.

2. OCE inspections. There is a lot of confusion around what OCE’s have to inspect and what are their obligations. A schedule the same as schedule 5 in the CMSHR for ERZ Controllers needs to be developed for OCE’s.

**Schedule 5 Matters to be covered in inspections**

section 309(3)(b)(i)

1 the presence of flammable gases or contaminants in the atmosphere
2 the adequacy of the following—
(a) ventilation;
(b) coal dust inertisation;
(c) emergency, first aid and fire fighting equipment
3 the condition of the following—
(a) ventilation control devices;
(b) auxiliary fans;
(c) surfaces over which persons may travel or vehicles may be driven;
(d) the support for the roof and sides of the workings
4 the stability of roadways in the workings
5 indications of heating or fire
6 abnormal water inflow
7 plant malfunction
8 the proper functioning of communication and monitoring systems
9 excessive accumulation of mud, water or coal
10 thermal environmental conditions

This would infect help OCE from being exploited and allow the OCE’s to achieve what the main roles as it does for ERZ Controllers.

General comments

To assist us in processing you general comments, could you please reference the page number of the QMSF Consultation RIS document you wish to refer too and insert your comments adjacent to the page number.
You can submit this form

Online

You can submit your feedback online using the online version of this form located on the Get involved website <https://www.getinvolved.qld.gov.au>.

By mail

Mine Safety Consultation RIS
Safety and Health
Department of Natural Resources and Mines
PO Box 15126
City East Queensland 4002

By Fax

(07) 3237 1242

By E-mail

Where possible, submissions should be lodged in Microsoft Word or other text based formats.

nmsf@dnrm.qld.gov.au

E-mailed responses should include the words “Mine Safety RIS” in the subject line.

Feedback on the Mine Safety National Framework Regulatory Impact Statement document should be provided online, by mail, fax or e-mail to be received by the Department by no later than 5 pm XX XXXX 2013.