

Resources Safety and Health Legislation Amendment Bill 2024

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2 May 2024

Committee Secretary
Clean Economy Jobs, Resources and Transport Committee
Parliament House
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Dear Committee Secretary

RE: RESOURCES SAFETY AND HEALTH LEGISLATION AMENDMENT BILL 2024

The Mining and Energy Union Queensland District (MEU) is the largest union in the coal mining sector and is the principal union with coverage of workers performing all roles within the sector. The Union has represented coal mine workers since 1908 on all matters related to employment, with a particular focus on health and safety matters in the coal sector. The Union is also the only Union recognised by the *Coal Mining Safety & Health Act 1999* (CMSH Act) and Regulations.

The MEU is the only Union that employs three (3) full time Industry Safety and Health Representatives, elected by the Union's membership, to perform the role in line with the provisions of the CSMH Act and Regulations.

We welcome the opportunity to respond to the *Resources Safety and Health Amendment Bill 2024*. In our submission, we only make comment on matters that we deem necessary.

MEU's primary position is that it opposes any attempt to harmonise legislation in the coal mining industry with other occupational health and safety legislation. This would result in a race to the bottom and undermine the safety and health laws and frameworks that we currently hold up as worldwide best practice. Standalone safety and health legislation for the coal mining industry is a longstanding practice instituted in 1925 in response to the Mount Mulligan disaster, and there is no justification for any deviation from this longstanding principle.

As the proposed amendments do not seek any harmonisation, the MEU supports the legislative review but takes the position that any proposed change needs to ensure that it improve and protects the safety and health of all persons at the coal mines this is the key in any review. To meet this objective the MEU recommends the changes outlined in this submission to further strengthen the amendments.

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Finally, in addition to the below submission, the Mining & Energy Union wants to place on the record it's disappointment that the current legislative review did not address the required further reform for the handling and prevention of dust diseases such as CWP and MDLD in the coal mining industry.

The MEU wants to ensure that it's put on the record that the Union shall continue to push for the next stage of these required reforms. All aspects of the government and industry are aware of the further reform and the reasons why these are important in protecting coal mine workers in the state of Queensland. Both the QLD District and the National Office of the MEU shall be addressing these urgent and required reforms with the State Government.

CLAUSE 5 DEFINITION OF SUPERVISOR

Section 26 of the current CSMH Act defines a supervisor as

*"A **supervisor** at a coal mine is a coal mine worker who is authorised by the site senior executive to give directions to other coal mine workers in accordance with the safety and health management system"*

The amendments propose to broaden the scope of duties of supervisors by replacing s.26 with the following definition:

*"A supervisor at a coal mine is a person appointed under section 56 to –
(a) implement and monitor the coal mine's safety and health management system; and
(b) give directions to other coal mine workers at the coal mine in accordance with the safety and health management system."*

The MEU raises concerns that the proposed definition exceeds the accepted scope of duties for the majority of supervisory positions. It is accepted that senior supervisors, manager and superintendents have the responsibility to "implement" the coal mines safety health and management systems the bulk of supervisors do not have such responsibility. The proposed amendment increases the scope of duties of supervisors to superintendent/manager level, without justification.

The MEU recommends that the proposed definition of "supervisor" should be consistent with the AQF and recognised Standard 22 for Coal Mining which delineates the duties between Manager, Superintendent and Supervisor.¹ Alternately, the term "implement" should be removed from the draft.

CLAUSE 8 OBLIGATIONS OF PERSONS GENERALLY

The amendments to s.39 have narrowed the scope of persons to whom the obligations under the section apply to.

Currently, s.39 applies to both coal mine workers at a mine as well as *"a person who may affect the health and safety of others at a coal mine."*

Whereas the proposed amendments narrow this definition to only the following classes of persons
(a) coal mine worker at the mine; (b) other person at the mine; and (c) ROC worker at the mine.

¹ Recognised Standard 22 "Management Structure for the development and implementation of the Safety and Health Management System"; clause 5.5 Hierarchy of Positions; pg12.

The proposed definition in the amendments includes ROC workers, whom will not be on a mine site, but it excludes any other person whom may have an ability to affect the health and safety of a person at the mine but is not actually on a mine site.

The proposed amended definition is also inconsistent with s.5 of the Act which defines whom the Act applies to.

In order for s.39 to reflect the existing scope of person to whom the obligation applies, as well as consistency with s.5, the MEU recommends that the amendment include a further subsection which states:

“(d) any other person whom may affect the health and safety of others at a coal mine”

CLAUSE 22 COMPETENCIES OF SUPERVISORS

The MEU refers to recommendation 4 of the “Brady Review²” which states:

Recommendation 4: The industry needs to focus on ensuring workers are appropriately supervised for the tasks they are undertaking.

In 32 of the 47 fatalities, the worker was required to be supervised when undertaking the task, i.e., the 32 did not include routine tasks, such as driving. 25 of these 32 fatalities involved inadequate or absent supervision.

17 of the fatalities involved a lack of training or inadequate training for the specific task being undertaken and inadequate or absent supervision.

Not only does absent or inadequate supervision allow tasks to be approached in an unsafe manner, but it also greatly amplifies the consequences of a lack of training or ineffective or unenforced controls.

The MEU notes an anecdotal trend towards coal mine operators hiring supervisors with little to no practical mining or trade experience in order to meet alternative objectives such as self-imposed diversity based targets. Such practices lead to a further increased risk of incidents and fatalities at the mine. The proposed amendments to the competencies of supervisors do not address this concern and allow coal mine operators to continue to appoint supervisors with inadequate experience to perform the role safely and competently.

In order to address this issue, the MEU proposed that subsection 56(2) includes further requirements a person must meet in order to be able to be appointed by an SSE as a supervisor. These requirements must include a minimum requirement of practical experience working as a coal mine worker, the MEU recommends 5 years as a minimum, and that the person be trained and competent to perform any task that they are appointed to supervise.

CLAUSE 36 DISPLAY OF DIRECTIVES REPORT AND OTHER INFORMATION

s.69(1)(b) does not specify which inspection reports of the mine are required to be displayed at the mine. The ISHRs note anecdotally that concerns raised from coal mine workers that inspection reports are often bundled together on a mine site and it can be difficult to ascertain the most recent reports.

² Review December 2019 of all fatal accidents in Queensland mines and quarries from 2000 to 2019; Dr Sean Brady for the Department of Natural Resources, Mines and Energy December 2019.

The MEU considers that the subsection (b) should be amended to clarify that only the most recent inspection reports carried out at the mine from inspectors, inspection officers, authorised officers, ISHRs and SSHRs must be displayed.

CLAUSE 38 ELECTION OF SITE SAFETY AND HEALTH REPRESENTATIVES

The amendments to the election of site safety and health representatives (“SSHRs”) have made a significant departure to the current practices for election of these roles as prescribed in the current regulations. These departures are in some instances either inconsistent or detrimental to the election process in the MEU’s view and should be changed to better current reflect custom and practice.

The first concern is that section 98B has been included as a new subsection (b) which states that an election of a SSHR must be held if *“a coal mine worker for the coal mine, or part of the coal mine, asks the site senior executive for the coal mine, or part of the coal mine, in writing for an election to be conducted by an entity mentioned in subsection 98B(1). (emphasis added)”*

The MEU highlights that the current industry practice allows for a coal mine worker to ask to the Chief Inspector, in writing, for an election to be held. The Chief Inspector then directs either an ISHR on behalf of the MEU or SSE to notify that an election shall be held to elect a new SSHR.

The new section, as emphasised above, requires a CMW to ask to an SSE for an election be held. Not only does this provision deviate from current practice it removes the ability for the MEU to be made aware that an election for a SSHR is to be held and denies the Union an ability to run the election. The new practice also unnecessarily exposes CMWs to potential reprisal action from the coal mine operator.

The MEU recommends that s.98B(b) to amended so that the coal mine worker can make the request to either the SSE or an ISHR on behalf of the MEU for an election to be conducted. Once the request is made to either the ISHR or SSE, they must then inform the party that an election is to be held for one of the reasons alleged and that the other party must assist in the running of that election. The MEU believes that the disputes over the running of the election should be resolved by the Chief Inspector, as per the current Regulations.

Of importance, if the CMW asks that the MEU conduct the election, the Union should have the ability to conduct that election and the SSE must provide the relevant assistance to conduct the election. The second concern that the MEU raises with clause 38 is that subsection 98B(1)(a) and (2) allows for 1 or more involved unions in an election. As the principle Union in coal mining, with includes elected ISHRs, the MEU is the only Union capable of conducting elections on behalf of all coal mine workers for the position of SSHR. Subsection (a) should be amended to reflect this fact and mention the MEU as the specific Union entity capable of running an election.

Finally, the MEU notes the relevant changes at s.93(3) incorporating the term of appointment for an SSHR. The MEU have had a number of issues with persons taking the incorrect view that an SSHR ceases in their role at the expiration of their elected term. This view is incorrect as s.96 and s.97 clearly states that a coal mine worker can only be removed from their role as an SSHR if they are removed by the Minister, resign, stop being a worker at the mine, or are removed from office by a vote of coal mine workers.

Given the number of times that this incorrect view has been raised within the industry, the MEU considers that it would be appropriate for a further amendment to s.93(3) to clarify that although a worker is appointed as an SSHR for a specific term, they remain appointed to that role after the

expiry of their term and can only be removed from the role in accordance with s.96 and s.97 of the Act.

CLAUSE 44 IDENTITY OF THE SITE SAFETY HEALTH REPRESENTATIVE

The MEU disagrees with the amendment to s.107(3). Currently the SSE is required to display the identity of the sites SSHRs in a “*conspicuous positions at the mine in a way likely to come to the attention of workers at the mine.*” The obligation of the subclause is to ensure that the identity of the SSHR, if required, can be readily accessed by coal mine workers. The manner in which this obligation met by the SSE is then left to their discretion.

The proposed change requiring the indemnity to be displayed “*near the mine record, in the crib room*” removes the threshold obligation to ensure that SSHR identify can be readily accessible to coal mine workers but also narrows the manner in which the SSE can exercise their discretion in displaying the identification of the SSE.

The MEU recommends that the wording in subsection (3) be maintained. The MEU does not object to an amendment of subsection (3) to the effect that the wording “*near the mine record, in the crib room*” are also included, as an examples of the manner in which the SSE can meet the obligation under the subsection.

REQUIREMENTS FOR POSITIONS TO BE EMPLOYED BY COAL MINE OPERATOR OR ENTITY THAT EMPLOYS MORE THAN 80% OF CMW’S

The previous amendments to the CSMH Act saw the introduction of exemptions to the requirement for the Coal Mine Operator to hire all statutory positions. The MEU argued against these exemptions at the time, stating that the exceptions were not necessary and foreshadowing that the exemptions would be open to abuse by coal mine operators. The reasons for recent changes to the Act, for the requirement of statutory officials to be direct employees of the mine, should not be forgotten. The MEU strongly opposes any watering down of this provision.

However, since their introduction, the MEU’s concerns have been borne out and the MEU again submits that such exemptions (for eg, the coal mine operators to be able to hire contractors in these roles for not more than 12 weeks) should be removed.

As previously stated, these important statutory safety positions should not be held by contractors. There are industrial instruments to employ them directly if required – such as temporary, fixed term, part time or casual agreements.

As foreshadowed by the MEU, some statutory contractors, in the OCE and ERZ positions particularly, are being hired on a series of rolling contractual arrangements and required to move between coal mines every 12 weeks, replaced by another contractor for 12 weeks. If they were employed directly, for example on a 12 week fixed term, they could be offered another 12 week fixed term employee contract and stay at the mine they are inducted and familiar with. Such arrangements undermine the safety of coal mine workers. By removing these exemptions and requiring operators to hire these employees on a permanent basis.

CLAUSE 135 ENFORCEABLE UNDERTAKINGS

The MEU supports the introduction of enforceable undertakings into the CSMH act as a tool for enforcing compliance with the legislation. However, the MEU raises concerns with the fact that the power to accept enforceable undertakings rests solely with the CEO.

The MEU's concern is that this process does not ensure transparency as one person will be responsible for the decision to accept an undertaking in lieu of taking other more significant action, such as prosecution, for contraventions of the legislation. The MEU has long raised concerns regarding the issue of regulatory capture within the Department of Mines and Natural Resources and giving the power to accept enforceable undertakings to a single person within the department raises the issue once again.

The MEU recommends that in order for enforceable undertakings remain as transparent as possible, a new tripartite committee featuring members of the MEU, regulators and the QRC should be formed to assess and accept any enforceable undertaking under the new legislation.

Yours faithfully



MITCH HUGHES
District President



3 May 2024

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RE: RESOURCES SAFETY AND HEALTH LEGISLATION AMENDMENT BILL 2024

Dear Committee Secretary,

The Mining and Energy Union (MEU) is a nationally registered union that is the primary union in the coal mining industries of Queensland, New South Wales, Tasmania, the West Australian Collie region, and the Latrobe Valley in Victoria where brown coal is present. The MEU has a strong legacy of being the foremost union in occupational health and safety (OHS) within the coal mining sector and other industries it represents, such as power generation, coal ports, and rail in both Iron-Ore and Coal sectors.

The Mining and Energy Union (MEU) has a particular focus on OHS related matters, particularly the coal sector. The MEU has and will continue to assist the relevant MEU mining membership in all areas and aspects of OHS. This is why there is an additional submission that will reflect the Queensland MEU submission in several areas and provide further detail in other areas.

The Mining & Energy Union (MEU) wants to place on the record its disappointment that the current legislative review did not address the required further reform for the handling and prevention of dust diseases such as CWP and MDLD in the coal mining industry. The Union shall continue to push for the next stage of these required reforms. All aspects of the government and industry are aware of the further reform and the reasons why these are important in protecting coal mine workers in the state of Queensland.

Both the QLD District and the National Office of the MEU shall be addressing these urgent and required reforms with the State Government.

The Mining and Energy Union Queensland District (MEUQLD) is the largest union in the coal mining sector and is the principal union with coverage of workers performing all roles within the sector. The Union has represented coal mine workers since 1908 on all matters related to employment, with a particular focus on health and safety matters in the coal sector. The Union is also the only Union recognised by the *Coal Mining Safety & Health Act 1999* (CMSH Act) and Regulations and employs three (3) full time Industry Safety and Health Representatives, which are elected by the Union's membership, to perform the role in line with the provisions of the CSMH Act and Regulations.

The MEU opposes any attempts to harmonise legislation in the coal mining industry with other occupational health and safety legislation. This would result in a race to the bottom and undermine the safety and health laws and frameworks that we currently hold up as worldwide best practices. Standalone safety and health legislation for the coal mining industry is a longstanding practice instituted in 1925 in response to the Mount Mulligan disaster, and there is no justification for any deviation from this longstanding principle.

The MEU recognises there are additional areas that need to be taken into account. These are:

Critical Safety Roles

The Mining and Energy Union (MEU) endorses the proposed modifications for the creation of additional statutory roles outlined in the Bill and asserts that these changes are essential. The MEU also advocates for additional amendments to tackle issues related to inspections in open-cut coal mines for Overman's Certificate holders (OCEs) and supervisors. In its response to the Coal Mining Safety & Health Regulation in November 2022, the MEU submitted suggested language and draft appendixes that included inspection schedules for both roles.

This was titled "Implementation of matters to be covered in inspections" This was like Schedule 5 for ERZC, the MEU proposes the implementation of matters covered by inspections for

1. OCE's (Schedule 5A); and
2. Supervisors (Schedule 5B)

Supervisors should be obligated to conduct and record safety inspections and make them available to all CMWs. This is required to ensure compliance with S 141 CMSHR 2001.

A similar requirement would not be required for the UG coal mines as the ERZC controller are in control of all activities and inspects each workplace and records the findings. The issue is that the open cut coal mines, a similar level of supervision is not provided.

There also needs to be the adoption of a new competency which would be developed for the following but not limited to **Obligations S39, refusal of tasks S 274 and reprisal S 275 AA.**

27. OCE & Supervisors' Safety Critical Roles:

- i. OCE's (Schedule 5A); and
- ii. Supervisors (Schedule 5B)

The MEU proposes the implementation of matters to be covered in inspections. Like Schedule 5 for ERZ Controllers, the MEU proposes the implementation of matters covered for inspections for:

The following sections provide draft guidance of what the proposed legislation may look like, and the MEU supports a consultative process to finalise the details.

Draft Schedules for Inspections – OCE

a. Schedule 5A Matters to be covered in Inspections (Draft) – Open Cut Examiners

(Sections - 103, 104, 105, 106, 107, 108 & 109, 141 CMSHR 2017) Consideration of Sections 308, 309, 310 (reference to OCE not ERZC), 311 Open cut application, 312 to reflect the open cut excavations requirements.

1. Presence of flammable gases or contaminants in the work area.
2. Stability of Roadway's, all active mining areas including High walls, low walls including benches and input areas. All places in which people work or travel. Bunding including height, width.

3. Surfaces over which persons may travel, or plant / equipment may travel. Roadway conditions including width if narrow and where controls are in place for example speed restrictions.
4. Adequacy of the following:
 - a. Respirable dust including coal and Silica.
 - b. Emergency, first aid, firefighting, emergency response capabilities.
 - c. Strata Highwall, Low Wall and Bench's including in pits, Highwalls, Low walls, & End walls with any hazards – Geo- Tech Advice, cracking, slumping, low bunding, etc.
 - d. Dump areas standards- lighting, bunding, interaction, controls for dump access and emergency access requirements in these work areas.
5. Indications of heating & fires
6. Abnormal water, mud, or other fluid inflow material
7. Plant & equipment malfunction & machinery interaction
8. Proper functioning of communication, monitoring, and other services
9. Excessive accumulation of Mud, water, or coal
10. Thermal environmental conditions
11. Activities of workers in and around the open workings in which work is taking place. Including nightshift inspections and lighting standards. This should include supervisor inspections of work groups e.g., contractors in wash plants, workshops, tyre fitting bays, JSA's.
12. Loading of Explosives or areas explosives are to be fired. This to include the security of magazine and vehicles e.g., signage, locks, fencing, etc.
13. Delineation & signage on all roads and circuits in and around the mine and its workings, dirty or missing or inadequate- required immediate rectifying.
14. Open Cut Examiners must be contacted and made aware of any HPI's or other incidents which occurred on the previous shift.
15. Hazards across the site including wet or adverse weather conditions, speed restrictions and all other hazards which pose an unacceptable level of risk to coal mine workers.

b. Schedule 5B Matters to be covered by safety inspections (Critical Safety Role) of a workplace not covered by an OCE or ERZC- Sections 141, 94:

1. Surfaces over which persons may travel, or mobile plant may be driven.
2. Plant & equipment malfunction & machinery interaction.
3. Proper functioning of communication, monitoring, and other services
4. Environmental conditions persons are exposed to, e.g., Thermal, wet weather.
5. Activities of workers in and around the work area where the activity is taking place. Including nightshift inspections including lighting standards. This includes inspections of work groups e.g., contractors in wash plants, workshops, tyre fitting bays, JSA's.
6. Ensure the SHMS and in particular the risk management practices and requirements are being applied and followed.
7. Adequate lighting.

8. Adequacy of the following:
 - a. Respirable dust including coal and Silica
 - b. Emergency, first aid, firefighting, emergency response capabilities
 - c. Indications of heating's & fires
9. Abnormal water, mud, or other fluid inflow material
10. Excessive accumulation of Mud, water, or coal.
11. Delineation and signage on roads and in the workplaces. Hazards across the site including wet or adverse weather conditions, speed restrictions and all other hazards which pose an unacceptable level of risk to coal mine workers.

Other Matters including MDLD Reforms:

The Mining & Energy Union supports the legislative review and takes the position that any proposed change needs to ensure that it improves and protects the safety and health of all persons at the coal mines this is the key in any review.

As a part of the legislative review, several matters were not included for review or considered at this time due to time restraints.

The Mining & Energy Union wants to place on the record for further consideration and continuous improvement to protect the health and safety of all coal mine workers the following:

The Queensland MEU have campaigned and pushed reforms for Coal Mine Workers CWP & MDLD since the re-emergence in 2015 of these terrible diseases.

The MEU was disappointed that the current legislative review did not address the required further reform in this area. The MEU wants to ensure that it's put on the record the next stage of these required reforms which will be addressed below within this submission.

All aspects of the government and industry are aware of the further reform and the reasons why these are important in protecting coal mine workers in the state of Queensland.

The CFMEU (Mining & Energy Division) at the time in 2016 provided a submission for the ***"Inquiry into The Re-Emergence of Coal Workers' Pneumoconiosis Amongst Coal Mine Workers in Queensland- November 2016."***

This was done in response to the Queensland public inquiry and other inquiries across Australia into the situation in Queensland at the time.

Within this submission, the MEU outlined a total of 13 recommendations for consideration that eventually were adopted into the current reforms and standards in place today in 2024. There were two recommendations that still have not been rectified or further reform undertaken which the submission at the time has as recommendations:

Recommendation 2: All NMA's must be appointed by the government and not the coal mine operator. Those carrying out the respiratory component for screening must be independent appointed by the government and a small group.

Recommendation 11: that state coal mining safety regulators take responsibility for dust sampling in coal mines, or at least develop the capacity to supervise dust sampling in coal mines including regular spot-checks to ensure compliance. All dust monitoring must be independent of the coal operator.

Recommendation 13: that state coal dust sampling requirements be reviewed with the goal of adopting best practice technology real-time monitoring for each and every coal miner.

These matters need to be addressed and the framework and mechanisms for their implementation are available and need to happen now. There is still ongoing work occurring with the real-time monitoring for dust, but this research needs to be supported and funded.

Recommendation 2: All NMA's must be appointed by the government and not the coal mine operator. Those carrying out the respiratory component for screening must be independent appointed by the government and a small group.

Further review and reform are required in the following Section of the Coal Mining Safety & Health Regulation (June 2022) Division 2 – Coal Mine Workers Health Scheme. The following regulations and changes are required below.

The government also needs to develop a panel of doctors & specialists which are not company aligned or employed to be able to achieve this outcome.

Coal Mining Safety & Health Regulation 2001

R 44 Definitions for division:

- The approved medical advisor needs to be an independent doctor selected off a panel of doctors are not the appointed employers AMA. These doctors have continued to abuse the role they have undertaken directly affecting CMW's.
- Chest x-ray needs to reflect the NIOSH B-reader requirement to ensure the legislation requirement and certainly (this applies across all chest x-ray examinations)

R 45 Employer must appoint Medical Adviser:

- This section needs to be reviewed and changed to reflect the removal of the employer's appointment of the doctors (company) they have abused and continue to fail CMWs.
Note: The current COPD matters in which company doctors are failing the CMW for example in ensuring compliance with division 44 A (a), (b) & (c).
- There needs to be an independent group of doctors from which CMWs can choose and not be subject to the employers' doctors.

R 46 Employer must arrange for Health Assessment:

- Removal of reference to the appointed medical adviser throughout this regulation.
- The MEU maintains the position that the employer must pay for all aspects of the health assessment.

R 46 A Content of Health Assessment:

- Removal of reference to appointed medical adviser throughout the regulation.

R 46 B Other matters about Health Assessments:

- Removal of appointed medical advisers throughout this regulation.

R47 Employers' responsibility for Health Assessment:

- Removal of the appointed medical adviser throughout this regulation
- The current requirement in which the employer is responsible for the treatment of physical or medical condition needs to be removed and the employer needs to pay.

R 48 Reviewing Health Assessment:

- Within this section, there needs to be real independence of doctors or relevant medical specialists apply. Cannot have the company appointed doctor involved.
- The current regulation (2) (b) needs to remain and ensure it's the CMW's choice of an independent doctor or specialist.
- Removal of appointed medical advisers needs to apply across this regulation.
- The employer needs to pay for this assessment, not the CMW.
- The CMW must be provided with a copy of the full report.

R 48 A Conflicting Health Assessment Reports:

- This to remain.

R 49 Monitoring for Worker's Exposure to Hazards:

- This periodic monitoring review or report must form part of the mines SHMS and access is given to CMWs.
- The notice under (3) must be provided to the CMWs and the panel of independent doctors for the industry/mine.

R 49 A Request for Exit Assessment:

- The removal of the appointed medical adviser needs to be undertaken throughout this regulation.
- Need to ensure for chest x-ray it's the ILO & NIOSH applied B-reader requirements.

R 49 BA Delaying part of Health Assessment or Exit Assessment:

- Removal of the appointed medical adviser.

Subdivision 3B Approval of Providers

R 49 H Who may apply:

- (1) This is the section in which the CEO can determine and stipulate the independent panel of doctors & specialists instead of the appointed medical adviser (company) doctors.

The MEU has developed further legislative clauses and can provide these revised clauses to each of the relevant regulations referenced above if needed.

Recommendation 11:

That state coal mining safety regulators take responsibility for dust sampling in coal mines, or at least develop the capacity to supervise dust sampling in coal mines including regular spot-checks to ensure compliance. All dust monitoring must be independent of the coal operator.

Recommendation 13:

That state coal dust sampling requirements be reviewed to adopt best practice technology real-time monitoring for each and every coal miner.

While the Queensland mining industry is now considered to have in place some of the best reforms and legislation for MDLD which includes health surveillance, dust prevention and controls, monitoring, and ongoing treatment/ compensation there is room for improvement.

To ensure that CMW's health and safety is protected and improved the MEU believes that the next logical reform required is the introduction of an independent respirable dust sampling and analysis.
in Queensland coal mines.

The existing standards to better protect miners against occupational exposure to respirable dust, which is a significant health hazard, from exposure to airborne contaminants these standards have been a work in progress since 2017. The new standards consisted of various new measures including legislation for the provisions for methods of compliance, exposure monitoring, corrective actions, respiratory protection, medical surveillance, etc.

In Australia, the current monitoring and sampling schemes in Queensland & NSW Coal are undertaken by the company that engages a third party to provide the service or as occurs in NSW it is undertaken by Coal Services.

- *To achieve this in Queensland the service can be provided by SIMTARS who should be responsible for the conduct of dust sampling in mines, or at least supervising and regular spot-checking of the process undertaken by an independent provider.*
- *To both validate and support the MEU's position on the need for this third party or independent sampling we use the experience from the USA and the data.*

The approach undertaken in the USA with the regulator Mine Safety Health Administration undertakes the following program below:

MSHA Inspection and Respirable Dust Sampling

Under the existing standards, MSHA collects respirable dust samples at mines and analyses them for respirable coal dust & crystalline silica to determine whether the respirable is crystalline. Silica exposure limits are exceeded and whether exposure controls are adequate. MSHA's inspection and respirable dust sampling.

This section, for ease of reference, briefly summarises the process for MSHA's inspection and respirable dust sampling.

Respirable Dust Sample Collection

Under the existing standards, MSHA inspectors arrive at mines, determine which miners and which areas of the mine to select for respirable dust sampling, and place gravimetric samplers on the selected miners and at the selected locations. The gravimetric samplers capture air from the breathing zone of each selected miner and from each selected work area for the entire duration of the work shift. Full-shift sampling is used to minimize errors associated with fluctuations in airborne contaminant concentrations during the miners' work shifts and to avoid any speculation about the miners' exposures during unsampled periods of the work shift. Once sampling is completed, MSHA inspectors send cassettes containing the full-shift respirable dust samples to the MSHA Laboratory for analysis.

Respirable Dust Sample Analysis

The MSHA Laboratory analysis respirable dust samples following the standard operating procedures summarized below.⁶ Any samples that are broken, torn, or visibly wet are voided and removed before analysis. Samples are weighed and then examined for validity based on mass gain. All valid samples that meet the minimum mass gain criteria per the associated MSHA analytical method are then analysed for respirable crystalline silica and for the compliance determination. The MSHA Laboratory uses two analytical methods to determine the concentration of quartz (and cristobalite and tridymite, if requested) in respirable dust samples: X-ray diffraction for respirable crystalline silica.

Conclusion

This analysis of MSHA inspector sampling data shows that MNM operators have generally met the existing standard. Of the 57,769 respirable dust samples from MNM mines, approximately 6 per cent exceeded the existing respirable crystalline silica PEL of 100 µg/m³, although there are several outliers with much higher overexposures. For 9 of the 11 occupational categories (SEG's), less than 10 percent of the respirable dust samples had concentrations over the existing PEL of 100 µg/m³ for respirable crystalline silica. While stone-cutting operators have historically had high exposures to respirable dust and respirable crystalline silica¹⁰ and continue to, analysis of MSHA respirable dust samples from 2005 to 2010 showed that stone and rock saw operators had approximately 20 per cent of the sampled exposures exceeding the to experience the highest overexposures of any MNM occupation, about 80 per cent of samples taken from stone cutting operators did not exceed the existing PEL. For the categories of drillers, miners in other occupations, and operators of large, powered haulage equipment, approximately 5 per cent or less of the respirable dust samples showed concentrations over the existing exposure limit. In summary, the analysis of MSHA inspector sampling data indicates that the controls that mine operators are using, together with MSHA's enforcement, have generally been effective in keeping miners' exposures at or below the existing limit of 100 µg/m.

As in the USA the Coal Mine operators are required to conduct sampling to assess miners' exposures to respirable coal dust & respirable crystalline silica. Coal Mine operators are also required to evaluate the impact of mining production, processes, equipment, engineering controls, and geological condition changes on respirable coal & crystalline silica exposures.

In a Queensland context the legislation would still apply along with the required Recognised Standards which are currently in place as indicated below.

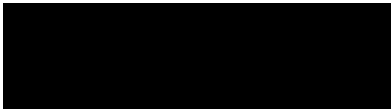
Recognised standards & Safety Bulletins (coal mines)

- [RS5: Quality of incombustible dust, sampling, and analysis of roadway dust in underground coal mines \(PDF, 247KB\)](#)
- [RS14: Monitoring respirable dust in coal mines \(PDF, 717KB\)](#)
- [RS15: Underground respirable dust control \(PDF, 1.9MB\)](#)
- [RS20: Dust control surface mines \(PDF, 2.3MB\)](#)
- [Mine Safety Bulletin 151: Preventing dust-related lung diseases](#)

In essence, the proposed reform aims to enhance the existing regulatory framework and elevate health safeguards for QLD coal miners. This should be a priority for both the QLD Government and the Industry, as the Government in QLD and ministers responsible for the resources sector have consistently emphasised that Queensland boasts the most robust mining legislation globally, safeguarding and protecting the wellbeing of mine workers.

In order to achieve this, it is essential to put into effect the reforms and changes recommended by the MEU. This will guarantee the safeguarding of the respiratory health of Queensland miners not only at present but also for the years ahead as we owe it to the miners of Queensland.

Yours sincerely,



Stephen Smyth
General Vice President