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On behalf of CFMEU Mining and Energy Division Qld./

**Submission on Mines Legislation (Resources Safety) Amendment Bill 2018**

To Lucy Manderson  
Committee Secretary  
Education, Employment and Small Business  
Parliament House  
George Street  
Brisbane 4000  
17<sup>th</sup> April 2018

I am making this additional submission as a Industry Safety and Health Representative (ISHR) appointed by the Construction Forestry Mining and Energy Union - Mining and Energy Division, Queensland (CFMEU).

After holding some discussions with Minister Lynham on a number of safety and health issues which affect the coal mining industry yesterday, the CFMEU Mining and Energy Division would like to raise a number of issues which we believe should be able to be included in this bill as the time frame for getting safety and health amendments through as well as the process for these has been very ordinary over the last few years

**The Report No. 2, 55th Parliament Coal Workers' Pneumoconiosis Select Committee** was tabled in May 2017 and contained 68 Recommendations.

Prior to and since the date of the 2<sup>nd</sup> Report time there has been some work undertaken by the Department on some of the recommendations.

Recently the project Management Office was set up and tasked with looking at a number of the recommendations mainly at the options for resources safety and health regulator models and location, and the use provision of fee for service by SIMTARS.

The Minister or the Government has not formed tripartite working parties, as was the case for developing much of the current mining legislation, to look at the recommendations and where possible and functional recommend change to the Coal Mining Legislation.

The CFMEU believe that a number of these Recommendations could be reviewed by a tripartite process or implemented through change to legislation by the Inspectorate/Department.

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We have included these below and provided ways in which they may be included into the legislation through the 2018 Bill.

#### Recommendation 19

The TWA of 3mg/m<sup>3</sup> TWA for an 8 hour shift was never adjusted when the Australian Standard changed the flow rate of pumps to be used for the monitoring of respirable dust under the Queensland Coal Mining legislation, but in NSW the level was reduced to 2.5mg/m<sup>3</sup>.

Since that time and with the emergence of a large number of miners with COPD including CWP the regulation has not been lowered. We believe that the Government should enact recommendation 19 through this Bill.

*The Queensland OEL for respirable coal dust (including mixed mineral coal mine dust) should immediately be reduced such that it requires duty holders to ensure a 'coal worker' is not exposed to atmosphere containing respirable dust exceeding an average concentration, calculated under Australian Standard AS 2985, equivalent to the following for an eight hour period:*

- *for coal mine dust (including mixed mineral coal mine dust) – 1.5 mg/m<sup>3</sup> air*
- *for silica – 0.05 mg/m<sup>3</sup> air.*

*Section 89 of the CSMHR should immediately be amended to give effect to this recommendation.*

#### **(Recommendation 19)**

#### Recommendation 20 (a)

While the current Queensland coal mining legislation is based on a policy of “no approvals and no exemptions” there are requirements for mines to provide notice of where the operator intends to conduct second workings and also when sealing part of a mine. These notices were derived from the recommendations of Mine Wardens hearings after mine disasters in Queensland. See reg 320 and 327 CSMHR 2017.

#### **320 Notices to inspector**

***(1) Before second workings are started at an underground mine, the site senior executive for the mine must give an inspector notice about the proposed second workings.***

***(2) Before the mine's standard operating procedure for second workings is significantly changed, the site senior executive must give an inspector a copy of—***

- (a) the report on the risk assessment carried out under section 319(3)(a) for the change; and***
- (b) the proposed standard operating procedure.***

#### **326 Notice of intention to seal mine**

***(1) At least 30 days before an underground mine, or part of an underground mine, is sealed, the underground mine manager for the mine must give notice of the proposed sealing to—***

- (a) an inspector; and***
- (b) an industry, or site, safety and health representative for the mine.***

The CFMEU believe that the intent of this recommendation should be included in the Bill to require a mine to develop and submit a dust abatement plan to the inspector prior to the commencement of any new development panel or longwall block and prior to the starting of any new mine. This should also be reviewed prior to any new type of machinery being introduced or major changes to the cutting or ventilation methods in any part of a mine.

### Recommendation 20 (a)

Similarly a Surface mine should be required to submit a dust abatement plan prior to commencement and when a new pit is being developed, any major mining method change.

*The CMSHA and CMSHR, as necessary, should be amended to provide that:*

*a) An underground mine operator is required to submit to the authority a dust abatement plan and ventilation plan for approval by the Commissioner for Mine Safety and Health before any underground coal mining operations are commenced; and again, with appropriate amendment as necessary, before mining operations are commenced on any new longwall block.*

*b) An above-ground (surface) mine operator is required to submit to the authority a dust abatement plan for approval by the Commissioner for Mine Safety and Health before any mining operations are commenced.*

*c) The Commissioner for Mine Safety and Health must take into account the mine operator's compliance history and record of respirable dust monitoring results in deciding whether to approve, reject, or require amendments to the dust abatement and/or ventilation plans.*

### **(Recommendation 20)**

### Recommendation 21

The intent of this regulation could be included in the Bill with change to meet the current Department structure and in line with S320, that being a notice sent to the Inspector.

*It should be an offence for a mine operator to commence or continue mining operations, without the prior approval by the Commissioner for Mine Safety and Health of the required dust abatement plan and, where applicable, the required ventilation plan for the relevant mining operation. (Recommendation 21)*

### Recommendation 23 and 29

The Department have set up a dust monitoring database and provide excellent feedback to the Coal Mining Safety and Health Advisory Committee, through de-identified data. The CFMEU ISHRs currently receive any dust exceedances as per the CMSHR 2017 but do not receive the other dust results or have access to the data base held by the Department for all dust monitoring results. Recently the ISHRs have held discussion with the Inspectorate on access to the data base to allow for preparation for mine inspections. This would assist in meeting Recommendation 23, the CFMEU believe that this should be affected by inserting a regulation for this matter in the current Bill.

*Queensland's Mine Safety and Health Authority should establish a database of dust mitigation techniques and technologies used in Queensland coal mines to be used for auditing purposes and to inform research and analysis into the efficacy of engineering dust controls. (Recommendation 23)*

*Results of all atmospheric dust monitoring undertaken in compliance with the regulation should be provided directly by the approved entity engaged to undertake the tests to each of the following: the Mine Safety and Health Authority, the coal mine operator (or person conducting the business at which the testing was undertaken), the miner who wore the device from which the test sample was taken, and the relevant ISHR, district workers' representative, or union delegate for the business at which the testing was undertaken. (Recommendation 29)*

### Recommendation 31

The CFMEU believe that this recommendation should be enacted by inserting such change in the current Bill. Further, inspection activities by ISHR, and their equivalents under the other mining safety and health Acts, are integral to a robust and reliable risk-based approach to the regulation of safety and health in the mining industry. Industry and public confidence in this system would be significantly improved if ISHRs (and their equivalents) were empowered to undertake unannounced inspections without the requirement to give the mine operator 'reasonable notice' of the proposed inspection.

*As such, section 119(1)(b) of the CMSHA and section 116 of the Mining and Quarrying Safety and Health Act 1999 should be amended to remove the requirement for ISHRs to give 'reasonable notice' to the mine operator before the power to enter a mine site is exercised. (Recommendation 31)*

**Recommendation 45 and 46**

The CFMEU believe that all coal mine workers should be covered by a similar process and due to the fact the it appears surface mines are identifying a similar if not larger number of workers affected by COPD/CWP it would seem sensible to make it mandatory for all CMW to undertake this assessment every 5 years. This should be mandated in regulation through the current Bill.

*All underground coal mine workers should be required to undertake a health assessment every three years. (Recommendation 45)*

*All other coal workers (above-ground workers) should be required to undertake a health assessment at least every six years. (Recommendation 46)*

To assist further with Recommendation 31 and the matter of compliance with the Coal Mining Safety and Health legislation in general, the ISHRs currently have a power to use a Directive to stop work as at S167 CMSHA 1999, but the power to issue a s166 directive to take stated action to reduce risk would be a more appropriate directive to use in most circumstances especially in relation to the recent dust issues. The Queensland WPHS Act give similar powers to safety Representatives who, in most instances, have less technical qualifications then that required of an ISHR.

In 2003 the Australian Industrial Relations Commission examined concerns held by the CFMEU on safety and health standards in the mining industry, and it was agreed that the to consider the power for safety Reps to be able to issue PINs (Provisional Improvement Notices). The CFMEU believe that this power should be added in the current Bill.

I thank you for the chance to submit this additional submission on behalf of the CFMEU M&E Qld.

Yours in Safety



Greg Dalliston

Industry Safety and Health Representative  
CFMEU M&E Qld