



Government of **Western Australia**
Department of **Mines, Industry Regulation and Safety**

Submission templates - Work Health and Safety Regulations for Western Australia

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WHS Regulations submission coversheet

Section 1: Submission details

Full name	Daniel McDougall	
Organisation and position (if applicable)	MACA Limited HSEQ Advisor	
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Employment status (if applicable)	<input checked="" type="checkbox"/> Worker <input type="checkbox"/> Employer <input type="checkbox"/> Self-employed <input type="checkbox"/> Other (enter details)	
	<input type="checkbox"/> Principal contractor <input type="checkbox"/> Contractor <input type="checkbox"/> OSH professional	
Size of workplace	<input type="checkbox"/> Small (0-9) <input type="checkbox"/> Medium (20-199) <input checked="" type="checkbox"/> Large (200+)	
Please indicate in what capacity you are making this submission (select one of the following categories)	<input type="checkbox"/> Individual <input checked="" type="checkbox"/> Business <input type="checkbox"/> Community organisation <input type="checkbox"/> Employer organisation <input type="checkbox"/> Other (enter details)	
	<input type="checkbox"/> Industry representative <input type="checkbox"/> Academic <input type="checkbox"/> Government representative <input type="checkbox"/> Professional	
Which industry sector do you operate in?	Mining, Civil, Construction	
Your type of job or business (if applicable)	<ul style="list-style-type: none">• Mining Contractor• Civil contractor (i.e. Main Roads contracts)• Construction of gold / minerals process plants.	

Section 1: Permission details

Internet publication

Public submissions may be published in full on the website, including any personal information of authors and/or other third parties **contained in the submission**.

Please tick this box if you wish for your input to remain confidential (that is, you **do not consent** to having your input published on the internet)

Anonymity

Please tick this box if you wish for your input to be treated as anonymous (that is, you **do not consent** to having your name, or the name of your organisation, published on the internet with your input)

Third party personal information

Please tick this box **if your input contains personal information of third party individuals**, and strike out the statement that is not applicable in the following sentence:

The third party **consents / does not consent** to the publication of their information.

WHS Regulations submission comments

Enter your comments on specific regulations in the table below. You may add new rows at the end of the table if you wish to include comments on other aspects of the national model WHS regulations.

When making your submission, please consider providing specific responses to the following issue:

1. What is the benefit to workplace participants of a proposal?
2. What is the likely cost for you, your business and the Regulator to implement a specific proposal?
3. Is a specific recommendation likely to be effective in achieving healthier and safer workplaces?
4. Are there any unintended consequences of adopting individual regulations in the model WHS regulations?
5. If a new requirement is proposed by the model WHS regulations, what are the costs and benefits?

This template can be used for providing your views concerning:

- National Model Work Health and Safety Regulations
- Demolition licensing under the OSH regulations
- Commercial driver fatigue under the OSH regulations
- Protection from tobacco smoke under the OSH regulations
- Proposed deletions in Western Australia to remove overlap with the *Dangerous Goods Safety Act 2004*

Section 2: Feedback

Track-changed document submission

- Which consultation document(s) are you providing feedback on?
- Differences between the national model WHS regulations and the OSH regulations 1996
 - Consultation document WHS (Mines) Regulations for WA
 - Consultation document WHS (Petroleum and Geothermal Energy Operations) Regulations for WA
 - Proposed deletions in WA to remove overlap with the Dangerous Goods Safety Act 2004*
 - Commercial vehicle drivers: Hours of work – Work Health and Safety Regulations for WA
 - Protection from tobacco smoke – Work Health and Safety Regulations for WA
 - Demolition work: Licence – Work Health and Safety Regulations for WA

Number of pages in
your submission

Does this submission contain a **track-changed version** of the
draft proposal?

Yes

No

If yes, submit as a Microsoft Word compatible document (.docx)*

General comments

The below General Comments (within this table) are related to:

Commercial vehicle drivers: Hours of work – Work Health and Safety Regulations for WA

5. If a new requirement is proposed by the model WHS regulations, what are the costs and benefits?

Current legislation (Occupational Safety and Health Act 1984 (WA)) – specifically, Section 4(2)(a) notes that the OSH Act does not apply to a mine site. Subsequently, Division 10 – Driving commercial vehicles has not applied to-date for mining equipment / vehicles operated within the mining lease.

Regulation 3.130 – “Commercial Vehicle” item (c) – “*any mobile plant or motor vehicle with a GVM over 4.5 tonnes that is designed to carry, or is carrying, a large integrated item of equipment*” – this definition would extend to mining and civil plant / equipment. For example:

- Dump Trucks (integrated item of equipment = tray);
- Excavator (integrated item of equipment = excavator bucket);
- Loader (integrated item of equipment = loader bucket);
- Watercart (integrated item of equipment = the tank on the back of the watercart);
- Grader (integrated item of equipment = grader blade / ripper);
- Support truck / explosives truck (integrated item of equipment = Hiab / explosives boxes);
- Service truck (integrated item of equipment = service module);
- Integrated Tool Carrier / Telehandler (workshop personnel operating with forks / jib)
- Integrated Tool Carrier (stemming bucket); and
- Crane.

Regulation 3.130 – “Commercial Vehicle Driver” item (a) – “*is more than 60 hours per week*” and (b) – “*for more than once per week — is more than 10 hours in any 24 hour period*” and (c) “*for more than once per week – includes the period from midnight to 5 a.m.*” – would encompass all MACA Mining operations that operate 24/7. Additionally, all MACA Civil projects would be captured within items (a) and (b).

Regulation 3.132 – Commercial vehicle driver, hours of work

Regulation 3.132(2)(b)(i) and (ii) prescribe maximum work hours of “*(i) in any 14 day period — at least 2 periods of 24 consecutive hours non work time; or (ii) in any 28 day period — at least 4 periods of 24 consecutive hours non work time if, and only if, the driver has no more than 144 hours work time in any 14 day period that is part of the 28 day period.*” All MACA’s Mining Projects, MACA Crushing Projects, MACA Interquip (SMP) Projects and MACA Civil Projects (i.e. TSF Dam Construction

Projects currently operating under Mines Safety & Inspection Regulations 1995 (WA) would be impacted by the introduction of Regulation 3.132(2)(b)(i) & (ii).

Response to item 2 – *What is the likely cost for you, your business and the Regulator to implement a specific proposal?*

As at October 2019, 1022 people within MACA's Mining & Crushing business work a 12 hour day on a 2/1 (14/7) roster. It is estimated ~607 workers would fall within the definition of Commercial Vehicle Drivers.

MACA Civil labour numbers are very volatile (being that MACA Civil operate on short-term construction projects). However, as one example, the MACA Civil project at a Tier 1 Mining House (operating on a mining lease under Mines Safety Inspection Act / Regs) employs 55 workers, approx. 60% of workers would be defined as Commercial Vehicle Drivers. The standard roster for MACA Civil operators is a 4/1 (28/7) roster including one RDO. The roster at the Tier 1 mine site was mandated by the client as a 21/7 roster with no RDO's.

The introduction of the Commercial Vehicle Driver maximum hours on MACA Mining and MACA Civil projects that currently operate under the Mines Safety & Inspection Regulations would be momentous. Regulation 3.132(2)(b)(i) & (ii) would limit the maximum ongoing roster cycle to a 12 day on-site roster.

Additional Flights

Moving to a 12 days on, 6 days off roster over 3 crews would increase flights by 16%. Moving to a 7 days on, 7 days off roster over 4 crews would increase flights by 50%. This would be a significant cost to the business (MACA and Clients). This would also see a significant increase in the CO₂ emissions from additional FIFO flights per year.

\$30k Reduced Wages per Worker – MACA Mining

A significant challenge is the requirement of 24/7, 365 manning requirements at mining operations. A 12 days on, 6 days off roster cycle would likely not be achievable, with flights impacted by flight availability through the carrier. Transitioning from a 14 days on / 7 days off roster to a 7 days on, 7 days off roster would likely negatively impact each MACA employee / labour hire worker by approx. \$30,000 per year (example based on \$40 p/h, 12 hours/day, 14/7 roster = \$116,800; compared with a 7/7 roster = \$87,600).

\$47k Reduced Wages per Worker – MACA Civil

The negative financial impact to workers employed by MACA Civil required to modify from a 28/7 roster to a 7/7 roster would be \$47,500 per year (example based on \$40 p/h, working 12 hours a day on a 28/7 roster with 1 RDO = \$135,000, 7/7 roster = \$87,600).

\$100m Increased Wage Costs – MACA Limited

An introduction of a 7/7 roster solely for those workers defined as Commercial Vehicle Drivers would increase MACA's Payroll Tax, Annual Leave, Superannuation, Workers Compensation Insurances applicable to these workers by an additional 33% (the increase in workforce from a 3 panel crew to a 4 panel crew). The Annual Leave costs alone associated with a 7/7 roster introduction for MACA affected workers would be in excess of \$20m per year, or \$100m over 5 years.

The Intent of Division 10

On review of Division 10, it is understood the intent of the prescriptive legislation is to cater to commercial vehicle drivers operating on-road i.e. truck drivers driving on WA public roads and interacting with members of the public. The highly prescriptive requirements of “Commercial Vehicle Drivers” spilling over into Mining Operations and mine site construction does not take into consideration the vast differences between these industries in their abilities to effectively manage the health and safety (i.e. comparing Mining House and Mining Contractor safety management systems to that of a self-employed solo driver). Additionally, it does not take into consideration the significantly different consequences i.e. a fatigued commercial vehicle driver operating a commercial vehicle on a public road exposes multiple members of the public to significant risk, whereas a mining operator experiencing fatigue on a mine site should be well-managed through the rigorous Fatigue Management Systems integrated into the mine’s operations.

Further Scope Impact – MACA Civil Roadworks / Road Construction

Additional to the above impacts to MACA Mining and MACA Civil projects currently operating under the Mines Safety and Inspection Regulations 1995 (WA), the Commercial Vehicle Driver requirements listed in Division 10 of the Occupational Safety and Health Regulations 1996 (WA) (quite likely unintentionally) impact all MACA Civil Road Construction projects, where MACA Civil are operating under the Occupational Safety and Health Act / Regulations. The definitions for Commercial Vehicle extend to encompass roadworks plant / equipment – i.e. graders, rollers, watercarts, articulated dump trucks. Again, it is believed that the intent of the regulations is not to impact such activities, rather the focus should be regulating the long-haul trucking industry.

Is a specific recommendation likely to be effective in achieving healthier and safer workplaces?

It is likely that the significant financial impacts to workers would negatively affect worker ability to financially support themselves / their families. Financial stress has been identified as a major contributor to mental health and wellness, and a significant change in income would likely result in a significant cause of stress.

The nature of 24/7 manning requirements at mining operations would not eliminate the need for shift-work / nightshift. Resources would be better allocated to the management of fatigue on shiftwork / nightshift, compared with the adherence to Division 10. MACA’s mining operations have a high level of structure relating to start / finish / break times. For example, the requirement to maintain a Commercial Vehicle Driver logbook for mining operations, where structured work hours exist, would not provide a real-world benefit or assist in the management of fatigue.

**The below Detailed Comments (within this table) are related to: Commercial vehicle drivers:
Hours of work – Work Health and Safety Regulations for WA**

Detailed comments

If commenting on specific content, you may wish to use the table below.

Reference to specific model WHS / OSH reg no.	Comment
<p>Regulation 3.130 – “<i>Commercial Vehicle</i>” item (c) – “<i>any mobile plant or motor vehicle with a GVM over 4.5 tonnes that is designed to carry, or is carrying, a large integrated item of equipment</i>”</p>	<p>Regulation 3.130 – “Commercial Vehicle” item (c) – “any mobile plant or motor vehicle with a GVM over 4.5 tonnes that is designed to carry, or is carrying, a large integrated item of equipment” – would extend to mining and civil plant / equipment. For example:</p> <ul style="list-style-type: none"> • Dump Trucks (integrated item of equipment = tray); • Excavator (integrated item of equipment = excavator bucket); • Loader (integrated item of equipment = loader bucket); • Watercart (integrated item of equipment = the tank on the back of the watercart); • Grader (integrated item of equipment = grader blade / ripper); • Support truck / explosives truck (integrated item of equipment = Hiab / explosives boxes); • Service truck (integrated item of equipment = service module); and • Crane. <p>To prevent significant impact to mine sites, the scope of Regulation 3.130 should be updated to refer to <i>A Commercial Vehicle operated on a public road.</i></p>

The below Detailed Comments (within this table) are related to: Differences between the national model WHS regulations and the OSH regulations 1996

Detailed comments

If commenting on specific content, you may wish to use the table below.

Reference to specific model WHS / OSH reg no.	Comment
Item 11 Definitions – rigging work	Support for the update / correction of the definition of “Rigging Work.”
Item 37 Testing of electrical equipment and portable appliances – competent person	Support the expansion to the scope that the Model Regs introduce (inclusion of all workplaces – not limited to construction sites). However, do not agree with the reduction in the specific training requirements for workers undertaking test-tag duties.
Item 47 Duties of a PCBU involving the management or control of plant – Major inspection	Support for continued reference to Australian Standards AS 1418 and AS 2550.
Item 49 Duties of a PCBU involving the management or control of plant – Design life	Support for continued reference to Australian Standard AS 2550.
Item 53 Meaning of High Risk Construction Work	Support for the adoption of the Model WHS definition of High Risk Construction Work.
Item 64 Duty to provide health monitoring	Strong support for the retention of OHS Regs definition of “a person is at risk” over Model WHS Regs definition of “significant risk” re: threshold exposure requiring health monitoring. Adoption of the Model WHS terminology would significantly reduce the Health Surveillance monitoring requirements (negative impact to the industry)
Item 68 Risk assessment for hazardous substances report	Support for the retention of the WA OHS Regulations requirement to complete Risk Assessments for Hazardous Substances.
Items 90 / 91 / 92 Record Keeping	Support for the Model WHS retention of records (including length of record retention) including retention after employment has ceased.

The below Detailed Comments (within this table) are related to: National model Work Health and Safety Regulations

Detailed comments

If commenting on specific content, you may wish to use the table below.

Reference to specific model WHS / OSH reg no.	Comment
Part 1.1 – Definitions – asbestos containing material (ACM); asbestos-related work; asbestos removal work;	Current definitions of: <ul style="list-style-type: none"> - <i>Asbestos</i>; - <i>ACM</i>; - <i>Asbestos-related work</i>; and - <i>Asbestos removal work</i> - item (a) would require excavator operators, dump truck operators to be licenced asbestos removalists when removing naturally occurring asbestos in mining operations, where the naturally occurring asbestos is then encapsulated in a designated zone, as part of the mining operations.
Part 1.1 – Definitions “Crane”	Earthmoving equipment (i.e. Integrated Tool Carrier with Jib; Telehandler with Jib), when operated as cranes should achieve the requirements of AS 1418 and AS 2550 (i.e. AS1418.1, AS1418.5 and AS1418.8). A blanket exclusion of earthmoving equipment would likely reduce the legislated requirements around crane management. Recommend the DMIRS continue to maintain requirements for IT’s and Telehandlers as per Mines Safety Bulletin #114 – Compliance requirements for multi-purpose mobile plant. Consider including “earthmoving machinery operated as a crane” as a crane.
Part 1.1 – Definitions “Entry” (relating to confined space)	Full support for the improved definition of confined space entry, to now capture “within the boundary of the confined space”.
Part 3.2 – General Workplace Management 40(f)	A PCBU must ensure as far as is reasonably practicable: <i>(f) workers carrying out work in extremes of heat or cold are able to carry out work without risk to health and safety.</i> Concern that this legislation will be interpreted vastly differently dependent on perception – i.e. PCBU interpretation, compared with some workers. Concern that unions would use regulation 40(f) to cease work, even when work in hot environments is adequately managed. Recommend Part 3.2 makes reference to <i>SWA Code of Practice – Managing the work environment and facilities</i> or <i>SWA Managing the risks of working in heat</i> , to reduce the likelihood of misuse of legislation by certain parties. The SWA Code of Practice would provide improved clarity around thermal comfort vs hot environment, and the requirements for managing hot environments.
Division 6 – r48 Remote or isolated work	Item 48(2) <i>In minimising risks to the health and safety of a worker associated with remote or isolated work, a PCBU must provide a system of work that includes effective communication with the worker.</i> An Epirb would not meet the requirements of “effective communication” – however is one of the most common items of emergency equipment for remote workers. This would add approx. \$1k cost for each remote worker, plus sat phone maintenance costs.
r48 – definition “assistance”	“assistance” is not used in r48. Consider moving this definition to r43.

<p>R56 – Meaning of exposure standard for noise R57(2)</p>	<p>Regulation 56(1)(a) and r56(1)(b) list the “exposure standard for noise”, with both referring to AS 1269.1. Regulation 57(2) notes: <i>A PCBU at a workplace must ensure that the noise that a worker is exposed to at the workplace does not exceed the exposure standard for noise.</i> It is interpreted / understood that Regulation 57(2) refers to r56(1) for the definition of “exposure standard for noise” that in-turn refers to AS 1269.1. The issue – the definition of Exposure To Noise that AS 1269.1: <i>Exposure to noise is determined at the person's ear position <u>without</u> taking into account any protection that may be afforded by personal hearing protectors.</i></p> <p>To summarise – with current wording, a PCBU would be in breach of r57(2) in situations where the dB(A) and/or dB(C) exceeds the noise limits, <u>even if</u> the PCBU had implemented engineering controls (however, noise limits were still in excess of the dB(A) and/or dB(C) limits to reasonably practicable), and the worker was wearing hearing protection that reduced their exposure below the exposure standard.</p>
<p>R219(2) – Plant that lifts or suspends loads</p>	<p><i>(2) The person with management or control of plant at a workplace must ensure, so far as is reasonably practicable, that the plant used is specifically designed to lift or suspend the load.</i></p> <p>This will impact MACA significantly, where the use of Integrated Tool Carriers, Telehandlers with Jibs would not comply. Additionally, Integrated Tool Carriers with Tyre Handler attachments would likely not comply with this regulation. The cost associated with acquiring a Franna Crane for each Project would be >\$5m. The cost associated with acquiring Tyre Handling equipment “specifically designed to lift or suspend the load” is not immediately quantifiable, however would be \$millions.</p>
<p>R225(2) – Scaffolds</p>	<p><i>(2) The person with management or control of a scaffold at a workplace must ensure that the scaffold is not used unless the person receives written confirmation from a competent person, who has inspected the scaffold, that construction of the scaffold has been completed.</i></p> <p>This would require the person (i.e. supervisor) to <u>receive</u> written confirmation <u>from</u> a competent person. Situations where this would not be reasonably possible such as FIFO rosters across multiple crews; or shutdown workers (and supervisor) attending site after scaffold has been built. I expect the intent is for written confirmation of a competent person having inspected the scaffold. Recommend the regulation is updated to read: <i>(2) The person with management or control of a scaffold at a workplace must ensure that the scaffold is not used unless the scaffold has been inspected by a competent person, and that construction of the scaffold has been completed, and that a written record is maintained of the inspection and construction.</i></p>
<p>R328 – Application of Part 7.1 – Hazardous Chemicals</p>	<p>R328(6)(b) notes that Part 7.1 does not apply to tobacco or products made of tobacco. However, Cancer Council of Australia notes: <i>E-cigarettes do not generally contain tobacco.</i> This would therefore mean that e-cigarette / vape products would fall under the requirements of Part 7.1. Note: this is supported, as vape-related hazardous chemical hazards should be managed with the same level of control as other hazardous chemicals in the workplace.</p>
<p>Division 2 - safety data sheets</p>	<p>No requirement for the manufacturer / importer to ensure a safety data sheet is developed by a “competent person”.</p>

R330

Recommend the inclusion of “safety data sheet developed by a competent person...”

The below Detailed Comments (within this table) are related to: Proposal for Work Health and Safety (Mines) Regulations for Western Australia

Detailed comments

If commenting on specific content, you may wish to use the table below.

Reference to specific model WHS / OSH reg no.	Comment
<p>M6 – Definitions site senior executive</p>	<p>The definition of: “site senior executive, in relation to a mine, means the person appointed in accordance with the regulation M136 as the site senior executive at the mine”.</p> <p>Strongly encourage the Department to consider using the definition of Site Senior Executive from Coal Mining Safety and Health Act QLD s25 that notes: <i>The site senior executive for a coal mine is the most senior officer employed or otherwise engaged by the coal mine operator for the coal mine who – (a) is located at or near the coal mine; and (b) has responsibility for the coal mine.</i> This will significantly reduce the ambiguity around the term “readily available”. Alternatively, please ensure “Readily Available” is clearly defined. (issues with “readily available” also discussed further below).</p>
<p>M6 – Definitions - Supervisor</p>	<p><i>“supervisor means a person who allocates task to another person and supervises the person and the task...” – How does this impact those workers who are not leading hands, that work with Apprentices. For example: Heavy Duty Diesel Fitters working with apprentices, where the Fitter(s) are instructing the Apprentice on how to complete the task. Does the HD Fitter become a “Supervisor”, even though the HD Fitter is also a “worker” of the task? Recommend that either an exemption is made for those non-supervisory workers co-working with Apprentices, or the requirements are clearly defined to prevent oversight if employing apprentices.</i></p> <p><i>Note: The cost for MACA to provide the supervisor’s risk management training to all non-supervisor HD Fitters, solely to allow those HD Fitters to “supervise” apprentices would be approx. \$150,000.</i></p>
<p>M8 – Mining Operation M8(4)(f) defining mining operations</p>	<p>M8(4)(f) disclaimer clause – <i>an activity carried out on a road as defined in the Road Traffic (Administration) Act 2008 section 4; and Note 2 – Some mining operations carried on by or for State agency or instrumentality or any local government and excluded earlier from the definition will fall within the definition of mining operation.”</i> does not provide the same disclaimer as MSI Act s4.</p> <p>The concern held is that our MACA Civil road construction jobs (for Main Roads WA) involving load and haul during road construction, and the use of Borrow Pits / Gravel Pits would fall under the definition of Mining Operations.</p> <p>Current Situation: The MSI Act s4 – Definitions notes: <i>mining operations means any method of working by which the earth or any rock structure.....or mineral bearing substance is disturbed, removed,.... for the purpose of obtaining any mineral or rock from it for commercial purposes or for subsequent use in industry, whether it has been previously disturbed or not.....but does not include the operation of — (t) sand, gravel, limestone, or rock excavation carried on by or for any State agency or instrumentality or any local government for the</i></p>

	<p><i>use or disposition by any such agency, instrumentality or local government.</i></p> <p>We've understood this to mean that load and haul, and the use of Borrow Pits / Gravel Pits for construction of / upgrade of Main Roads projects would not be considered mining operations, as it would fall under the exclusion (t) clause.</p> <p>However, the proposed Model WHS (Mining) Regulations – section M7 definitions for “Mining Operation” are:</p> <p><i>(2) A mining operation is an activity carried out for the purpose of any of the following — (b) extracting minerals; (d) handling or transporting minerals extracted or processed in the State or processed products.</i></p> <p>The Model WHS (Mining) Regulations section M9 notes: <i>“Mineral means a natural occurring substance obtained or obtainable from any land.”</i></p> <p>The Model WHS (Mining) Regulations disclaimer re: roads. <i>(4) A mining operation does not include the following activities — (f) an activity carried out on a road as defined in the Road Traffic (Administration) Act 2008 section 4;</i></p> <p>We reviewed the definition of a road within the Road Traffic (Administration) Act 2008, that effectively talked about the road being open to the public. The construction of a greenfields road indicates that the road is not yet open to the public. Additionally, Borrow Pits / Gravel Pits are not open to the public.</p> <p>Our concern is a Borrow Pit and/or Gravel Pit used for the purposes of constructing / upgrading a road, may fall within the definition of a Mining Operation under the proposed Model WHS (Mining) Regulations.</p> <p>The financial implications of this change are difficult to determine, however it would likely cost MACA \$millions per project to achieve compliance for each Main Roads project (considering all the statutory appointments for a mine, SSE, Quarry Manager, SVO, Noise Officer, etc and the very short i.e. 6 month project lengths)</p> <p>Recommend to keep the exclusion from the MSI Act – exclusion item (t)..... but does not include: <i>(t) sand, gravel, limestone, or rock excavation carried on by or for any State agency or instrumentality or any local government for the use or disposition by any such agency, instrumentality or local government.</i></p>
<p>M24 – Content of mine safety management system M24(1)(d)(iii)</p>	<p>The MSMS shall include M24(1)(d)(iii) “<i>health management plan</i>” – This should be updated to ensure all requirements of the recent HHMP’s captured within the “Health Management Plan” – or, use the “Health and Hygiene Management Plan” terminology.</p>
<p>M36 – Communication between outgoing and incoming shifts</p>	<p>The way regulation M36 is worded does not adequately cover FIFO style dayshift only mining operations, or where a Senior Supervisor flies in on a mid-day flight (i.e. after pre-start meeting has been completed) and takes over the accountabilities of Supervisor. Suggest the regulation reads:</p> <p><i>The mine operator of a mine must implement a system that ensures that, for all changes of supervisor, (a) the outgoing supervisor provides a written report to the incoming supervisor, in relation to the state of the mine workings and plant and any other matters that relate to work health</i></p>

	<i>or safety as soon as practicable; and (b) the incoming supervisor ensures the content of the report is communicated to the workers on the incoming shift as soon as practicable.</i>
M45 – Minimum age to work in mine	Allowance for 16 year old workers in a mining environment – however the Dangerous Goods Security Card lists a minimum age of 18.
M118 – Record of training	Concern that there is not adequate definition around what is an adequate “record”. Consider the difference between a sign-on signature indicating a worker attended training, compared with a written and practical assessment of the training provided, where the training is mapped against the relevant RII unit of competency.
M114 / M118 – Record of training	Proposed regulation does not require a record of competency, only a record of training. Need to ensure M118(a) includes the requirements to <i>(a) make a record of any training provided to a worker, and a record of the competency under regulation M114; and (b) keep the records while the worker remains engaged at the mine.</i>
Chapter 6 – Information, training and instruction	<p>Chapter 6 does not provide adequate guidance on the accepted minimum standards for information, training and instruction. This has previously been identified by DMIRS (refer to: http://www.dmp.wa.gov.au/Safety/What-is-the-importance-of-5824.aspx) noting: <i>Although most mines have an established induction and training program, some do not satisfy the intent of the legislation. and <u>Where practicable</u>, training should be conducted in alignment with the relevant national units of competency. This will ensure the minimum industry standard has been met for the task or operation of equipment.</i> The industry’s (in general) inadequate provisions of information training and instruction would not meet the training.gov.au minimum requirements for a unit of competency. If the information, training and instruction does not cover the minimum industry standards (within the RII unit of competency); and the worker’s competency assessment does not meet minimum criteria listed in the RII unit of competency, then how can this be deemed as “<i>suitable and adequate</i>”?</p> <p>Recommend the DMIRS strengthen the regulatory requirements of Chapter 6 by the inclusion of “<i>Where a Resources and Infrastructure Industry (RII) unit of competency exists, the information, training and instruction must achieve the minimum requirements as listed within the relevant RII Unit of Competency, where practicable. The record of competency must provide evidence that all Performance Criteria listed within the RII Unit of Competency were achieved at the time of assessment, where practicable.</i>”</p> <p>The above wording would not require delivery by RTO’s (although engaging accredited RTO’s would be an option), however would ensure the delivery of training; and the worker’s competency (and record of competency) achieve the minimum industry requirements (as pre-determined by the training.gov.au RII units of competency).</p>
M135 – Terms Defined <i>Competent in health and safety risk management</i>	<i>Competent in health and safety risk management means having successfully completed the prescribed units in health and safety risk management approved by the MAPAC for that category of the statutory position. – Not yet available for review. However, would encourage the (to be formed) MAPAC to have multiple learning pathways to complete</i>

	<p>this H&S risk management unit(s), so those workers can complete online (without having to incur travel to Perth).</p>
<p>M135 – Terms Defined <i>Employment</i></p>	<p><i>employment for the purpose of this Chapter means the average for a quarter of the number of persons worked per day or for a new mine, average number of persons planned to work per day for a quarter.</i></p> <p>Could not identify why this definition is in the Model WHS (Mining) Regulations. The definition does not make any sense. If not required, remove.</p>
<p>M136 – Appointment to exercise statutory functions</p>	<p><i>(4) An individual appointed to exercise a statutory function who ceases to meet the requirement for nomination cannot exercise the statutory function and is taken to be no longer appointed to exercise that statutory function.</i></p> <p>Concern that, <u>after</u> the transition period, workers who have been quarry managers etc, that no longer meet the requirements, would no longer be quarry managers. Refer to below comment on Part 5 – Quarry Manager appointment.</p>
<p>M138 – Obligations on mine operator</p>	<p><i>(2) The mine operator of a mine must ensure that any individual who is appointed to exercise a statutory function at the mine is readily available to exercise , and is capable of exercising, the statutory function.</i></p> <p>Inadequate definition around “readily available” – is this meant to be restricted to KEY Statutory Functions? Refer to comment re: M6 – Definitions: <i>Site Senior Executive</i>. For example, I would expect a Site Senior Executive to be “readily available” – either onsite, or at camp / in town (i.e. can drive to site within 20-30 minutes). Whereas, “readily available” for a Supervisor would mean 24/7 rostering to ensure adequate supervision at all times. Additionally, would “Readily Available” require each mine site to have a back-to-back Noise Officer, and a back-to-back Surface Ventilation Officer? For many smaller mine sites, such roles are currently filled by contractors who visit site quarterly. Requiring every mine site to have back to back noise officers / SVO’s would likely be an impossible requirement to fill – as such roles are undertaken by specialists in the field (i.e. small experience / labour pool to draw upon).</p>
<p>M146 – Definition of High Potential Incident (i)</p>	<p><i>(i) any malfunctioning of explosives including accidental or delayed ignition or detonation.</i></p> <p>This should mirror the Dangerous Goods (Explosives) Regulations 2007 (WA) regulation 44 – to achieve consistency / standardisation with DGx Regulations, and to ensure reporting is aligned with DGx reporting requirements.</p> <p><i>(a) any dangerous goods incident that involves an explosive; (b) any malfunction of an explosive not involving a misfire; (c) any theft or attempted theft or any unexplained loss of an explosive.</i></p> <p>Dangerous Goods Safety Act 2004 – s3</p> <p><i>dangerous goods incident means any incident that involved dangerous goods and that caused or, but for intervening events, could have caused — (a) the death of an individual, unreasonable bodily injury to an individual that interferes with his or her health or comfort, or unreasonable harm to the health of an individual; (b) significant and unreasonable damage or harm to property or the environment;</i></p>

<p>M147 – Notice of occupational / work related disease</p>	<p>Mine operator needs to report (2)(a) a disease of a kind referred to in the Workers' Compensation and Injury Management Act 1981 Schedule 3. On review of Schedule 3, this includes "Communicable Diseases." Influenza (the flu) is a "communicable disease".</p> <p>This requirement existed in MSIR 3.39 – however, does DMIRS really require notification on the approved form on every worker that catches influenza (the flu) from a co-worker? I don't believe industry is currently achieving this requirement – i.e. completion of an incident report and reporting to the regulator for every occupational / work related disease that is influenza / flu.</p> <p>Another example – Schedule 3 requires reporting of "Effects of insolation" – work entailing prolonged exposure to sunlight (i.e. getting sunburnt) – surely this is not something to be reported to the regulator on the prescribed form?</p> <p>This seems very excessive and I cannot see the value-add from this regulation.</p> <p>Recommend the department need to review the intent, and update the Workers' Compensation and Injury Management Act 1981 Schedule 3 to reflect. Until a review of Schedule 3 is completed, I do not support the blanket inclusion of the reporting requirements listed in Schedule 3.</p>
<p>Schedule 5 (5.3 and 5.4)</p>	<p>Items 5.3 and 5.4 of Schedule 5 are applicable to underground mining only. Recommend updating to:</p> <p>5.3 - For underground mines, Procedures in the event of the ventilation system at the mine failing totally or for more than 30 minutes.</p> <p>5.4 - For underground mines, Procedures for maintenance of refuge chambers and other equipment required for emergencies.</p>
<p>Schedule 8 – Part 3 Noise officer</p>	<p>Regulation M138(2) will require for a Noise Officer to be "<i>readily available</i>" (i.e. Noise Officer onsite, not a contractor noise officer)</p> <p><i>any individual who is appointed to exercise a statutory function at the mine is readily available to exercise, and is capable of exercising, the statutory function</i></p>
<p>Schedule 8 – Part 3 Surface Ventilation Officer</p>	<p>Regulation M138(2) will require for a SVO to be readily available (i.e. SVO onsite, not a contractor who comes to site once a quarter)</p> <p><i>any individual who is appointed to exercise a statutory function at the mine is readily available to exercise, and is capable of exercising, the statutory function</i></p>
<p>Schedule 8 – Part 3 Supervisor</p>	<p>Leading Hands (i.e. Workshop Nightshift Leading Hand) would be providing "Supervision and control of workers" – therefore becoming a Supervisor (requiring appointment, H&S legislation examination, risk management course, minimum 2 years experience in similar operations or industry).</p> <p>This would have significant impact on the MACA business i.e. fill-in Supervisors, annual leave coverage etc where "leading hands" are step-up supervisors.</p>
<p>Schedule 8 – Part 3 Electrical Supervisor</p>	<p>Regulation M138(2) will require:</p> <p><i>any individual who is appointed to exercise a statutory function at the mine is readily available to exercise, and is capable of exercising, the statutory function.</i></p>

	<p>This will require an on-site Electrical Supervisor. Does readily available require an Electrical Supervisor for 24 hour dayshift / nightshift coverage? Need to define “readily available”.</p>
<p>M135 – Statutory Functions</p>	<p>“Shotfirer” is listed within Schedule 8 – Part 3, however is not listed within the Terms Defined section M135 – “Statutory Functions” list.</p>
<p>Schedule 8 – Part 5 (4)(a)</p>	<p>Prior requirements were a <i>degree in engineering from an Australian University</i>. It was not restricted to “mining engineering”. Dependent on the “equivalent degree or diploma” determined by MAPAC, MACA would potentially have up to 11x workers no longer able to hold Quarry Manager certificates after the two year transition period.</p> <p>If gravel pits / borrow pits (i.e. for Main Roads road construction) do become mining operations, they would then require a quarry manager. Currently, the MACA Civil Project Managers (who would be the SSE for site) hold Civil Engineering qualifications (and do not hold Bachelor of Mining Engineering, or Diploma of Mining Engineering). The requirement for completion of a Degree in “Mining Engineering” or a Diploma in “Mining Engineering” would be at significant cost and time.</p> <p>Recommend that Quarry Managers (under current legislation) retain the ability to hold Quarry Manager position.</p>
<p>Schedule 8 – Part 5 (4)(d)</p>	<p><i>(d) has a minimum of 3 year experience in or about a quarry and must include minimum of 3 months personal experience in each of the following activities:</i></p> <ul style="list-style-type: none"> - Ground support - <i>Drilling</i> - <i>Use of explosives in mines</i> - Mine planning - Mine transport and services - Emergency management <p>In the Transition notes, it discusses a Quarry Manager under the MSIA/R is accepted as a QM under WHS (Mines) Regs for the Transition Period – however, after the Transition Period, they would be ineligible to hold a QM appointment if they did not have 3> months Ground Support; Mine Planning; Mine Transport and Services; and Emergency Management experience. Refer to M136(4) - <i>An individual appointed to exercise a statutory function who ceases to meet the requirement for nomination cannot exercise the statutory function and is taken to be no longer appointed to exercise that statutory function.</i></p> <p>This will likely impact all MACA workers with Quarry Manager tickets – specifically the 3 months experience in Ground Support, Emergency Management, Mine Services.</p> <p>Encourage a provision of guidance on the acceptable requirements for existing quarry managers (i.e. will Quarry managers need to complete 3 months experience in Emergency Management, Ground Support).</p>