

Model Work Health and Safety Regulations for Mining - Public Comment Response Form

Organisational name Rio Tinto Limited	
Regulations Chapter 9: Mines	
Part 9.1	
Regulation	Comment
9.1.4(1)(a)(vi)	Rio Tinto considers that the word "uncontrolled" should be inserted into this subsection.
9.1.9	<p>Rio Tinto understands that this section considers a person's fitness for work in circumstances when impaired by alcohol or drugs. As currently drafted, prescribed medicine will also be classified as a 'drug' and could lead to persons on cold and flu medication, for instance, being adversely affected and therefore not suitable for work. It appears to Rio Tinto that this section is intended to address the risk of persons who use <i>illicit</i> drugs or substances or who <i>misuse</i> prescribed or non-prescribed drugs.</p> <p>Rio Tinto considers that this section should be reworded to address the use of illicit drugs and the misuse of prescribed or non-prescribed drugs. Such rewording would capture non-discoverable drugs such as "Kronic" as well as illicit drugs.</p>
Part 9.2	
Regulation	Comment
9.2.3(2)	Rio Tinto seeks to know whether the term "as far as reasonably practicable" will be defined in the Regulations, or whether legal precedent will be relied on in relation to the application of this terminology, so that the term "so far as reasonably practicable" is consistently applied across all jurisdictions.
9.2.4(1)(b)	Rio Tinto is of the view that the wording "...or an event that could reasonably be expected to lead to a notifiable incident" should be inserted into this subsection.
9.2.4(1)(f)	Rio Tinto considers that this subsection should only apply in circumstances where the request of the health and safety representative at a mine cannot be addressed by actions from previous reviews undertaken by the mine operator as prescribed in subsections 9.2.4(1)(a)-(e), and the mine operator has not adequately reviewed the risk control measures in response to that circumstance. Rio Tinto notes that these requirements are already addressed in subsections 9.4.2(3)(a) and (3)(b).

9.2.6(1)(a)	Rio Tinto considers that the words "...and health" should be added after the word "safety".
Part 9.2	
Regulation	Comment
9.2.13(b)	Rio Tinto considers that the words "As soon as reasonably practicable, at commencement of shift..." should be inserted at the commencement of this subsection.
9.2.21(2)(a)	Rio Tinto considers the following wording, "where persons may be exposed to harmful levels of airborne contaminants, adequate personal protective equipment must be provided by the mine operator and worn by the persons exposed", should be added to this subsection and to support the requirements of subsection (4).
9.2.23(3)	<p>Rio Tinto considers that the level set out in this subsection is extremely low, as methane burns up to 5%, explodes from 5% to 15% and displaces oxygen above 15%. Any power trip should be considered when the methane levels approach 5%.</p> <p>Rio Tinto considers that the requirement to trip the supply of electricity when the concentration of methane exceeds 1.25% is too low and recommends a level set at a concentration of around 3%.</p>
9.2.23(4)	Comments are the same as for 9.2.23(3) above.
9.2.23(5)&(6)	Whilst Rio Tinto agrees that monitoring the level of methane at a mine must occur, Rio Tinto considers the methane levels noted in this subsection are inappropriate for the reasons set out in its submission for subsection 9.2.23(3) above and accordingly, should be reviewed.
9.2.26(1)	Rio Tinto notes that any gas that causes oxygen levels to drop below a certain level will make the air irrespirable. In these circumstances, person/s exposed to the resultant atmosphere could die of asphyxia or be adversely affected if exposed to this atmosphere for long enough. Gas displacing oxygen in the first place does not need to be toxic to be potentially hazardous. Any gas that displaces oxygen in sufficient quantities has the potential of being an asphyxiant.
9.2.27(1)(b)	Rio Tinto considers that the date and details of equipment utilised should also be recorded.

9.2.28(1)(c)	Rio Tinto considers that the Regulations need to define / detail what a 'dead-end opening' is and provide guidance in relation to requisite distances (e.g. after 20 metres).
9.2.43(d)	Rio Tinto considers that the subsection should be extended to record "...consumption of alcohol or the use of illicit drugs, the use of synthetic drugs / substances, and the misuse of prescribed or non-prescribed drugs".
9.2.44(b)	Rio Tinto considers that the words "...and health" should be added after the words "safety".
Part 9.3	
Regulation	Comment
9.3.2(1)	When considering the mine operator's responsibility, Rio Tinto is of the view that the mine operator can and should only implement strategies for dealing with workers who consume or are affected by drugs and alcohol when they are at work. Otherwise, the proposed Regulation must also provide the mine operator with the ability to dictate to workers what alcohol and drugs they may consume when not at work. On this basis, Rio Tinto considers that this subsection needs clarification.
9.3.4(2)(b)	<p>Rio Tinto considers that this subsection requires clarification as follows:</p> <ul style="list-style-type: none"> • Rio Tinto is of the view that the intent of the subsection is to ensure that work carried out by a worker has not had an adverse effect on the worker's health. • In Rio Tinto's view, the current drafting of the subsection does not articulate this intent and may be interpreted as requiring a mine operator to perform a health assessment of the worker after every health exposure. • If interpreted in this manner, it would contradict the requirement of subsection 9.3.4(3)(c) which prescribes the need for a mine operator to consult with a registered medical practitioner regarding the frequency of health monitoring. • It is not clear to Rio Tinto whether this subsection requires a mandatory 'exit medical'. • It is not clear whether there is the possibility of introducing periodic monitoring such as periodic medical assessments.
9.3.4(4)	Rio Tinto agrees with the word "consult".

Other Comments
Nil