

NSW
Resources
Regulator

GUIDE

Notification of incident and injury

WORK HEALTH AND SAFETY (MINES AND PETROLEUM SITES)
LEGISLATION



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July 2016	3	Revised to include new phone number for notification of incidents.
April 2018	4	Added four new events to the definition of high-potential incident, and three new events to the list of dangerous incidents, under the Work Health and Safety (Mines and Petroleum Sites) Regulation 2014. Updated department's name and contact details

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Disclaimer: The information contained in this publication is based on knowledge and understanding at the time of writing (July 2018). However, because of advances in knowledge, users are reminded of the need to ensure that information upon which they rely is up to date and to check currency of the information with the appropriate officer of the NSW Department of Planning and Environment or the user's independent advisor.

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1. Introduction

This guide will help you decide whether the NSW Resources Regulator needs to be informed of a work-related death, injury, illness, dangerous incident or high-potential incident under the *Work Health and Safety (Mines and Petroleum Sites) Act 2013* (the Act) and *Work Health and Safety (Mines and Petroleum Sites) Regulation 2014* (the Regulation).

Notifying the Regulator of incidents can help identify causes of incidents and prevent similar incidents at that workplace and other workplaces.

There are two types of incidents that require information to be given to the Regulator – notifiable incidents and ‘other incidents’. Requirements to notify the Regulator may relate to any person – whether an employee, contractor or member of the public. Failure to notify is an offence and penalties apply.

Notifiable incident	‘Other incident’ that must be notified
<p>A notifiable incident is:</p> <ul style="list-style-type: none"> → the death of a person → a ‘serious injury or illness’, or → a ‘dangerous incident’ prescribed by the regulations. <p>Notification must be given to the Regulator if a notifiable incident arises out of the conduct of a business or undertaking at the mine or petroleum site.</p>	<p>An ‘other incident’ is an incident arising out of operations at the mine or petroleum site that:</p> <ul style="list-style-type: none"> → results in injury or illness requiring ‘medical treatment’, or → is a high potential incident.
<p>A notifiable incident requires:</p> <ul style="list-style-type: none"> → immediate notification by the fastest possible means → preservation of the incident site. <p>If notification is by telephone, written notification must be given within 48 hours of giving the notice by telephone.</p>	<p>An ‘other incident’ requires:</p> <ul style="list-style-type: none"> → written notification as soon as possible but within 48 hours of becoming aware that the incident resulted in injury or illness, or → written notification as soon as possible but no later than 7 days of becoming aware of the incident (whichever is earlier). <p>There is no need to preserve the incident site in relation to an ‘other incident’.</p>

Written notification is made using the online incident notification form on the Regulator’s website at: www.resourcesandenergy.nsw.gov.au/miners-and-explorers/safety-and-health/notifications/incident-or-injury

2. Notifiable incidents

2.1. What is a serious injury or illness?

Work health and safety laws define certain matters to be serious injuries or illness. The table below lists these matters together with examples. A key element for most matters is that the person affected 'requires' treatment. This means that the notification must still be made if treatment would be required but was not received by the person. For example, if:

- immediate treatment is not readily available because the incident site is rural or remote or specialist treatment is not available
- the person refuses treatment.

Treatment includes by a paramedic, registered nurse or a doctor. Medical treatment refers specifically to treatment by a registered medical practitioner, i.e. a doctor.

Examples of serious injury or illness

Injury or illness	Example
Immediate treatment as an in-patient in a hospital	Admission into a hospital as an in-patient for any duration, even if the stay is not overnight or longer. It does not include out-patient treatment provided by the emergency section of a hospital and immediate discharge or subsequent corrective surgery such as that required to fix a fractured nose.
Immediate treatment for the amputation of any part of the body	Amputation of a limb such as arm or leg, body part such as hand, foot or the tip of a finger, toe, nose or ear. It does not include bruising or minor abrasion or laceration to the skin.
Immediate treatment for a serious head injury	Fractured skull, loss of consciousness, blood clot or bleeding in the brain, damage to the skull to the extent that it is likely to affect organ/face function. Head injuries resulting in temporary or permanent amnesia.
Immediate treatment for a serious eye injury	Injury that results in or is likely to result in the loss of the eye or total or partial loss of vision. Injury that involves an object penetrating the eye (for example metal fragment, wood chip). Exposure of the eye to a substance that poses a risk of serious eye damage. It does not include eye exposure to a substance that merely causes irritation.

Injury or illness	Example
Immediate treatment for a serious burn	A burn requiring intensive care or critical care that could require compression garment or a skin graft. It does not include a minor burn that merely requires washing the wound and applying a dressing.
Immediate treatment for the separation of skin from an underlying tissue	Separation of skin from an underlying tissue such that tendon, bone or muscles are exposed (for example, degloving or scalping).
Immediate treatment for spinal injury	Injury to the cervical, thoracic, lumbar or sacral vertebrae including the discs and spinal cord.
Immediate treatment for the loss of a bodily function	Loss of consciousness, loss of movement of a limb or loss of the sense of smell, taste, sight or hearing, or loss of function of an internal organ. It does not include mere fainting or a sprain, strain or fracture.
Immediate treatment for serious lacerations	Serious lacerations that cause muscle, tendon, nerve or blood vessel damage or permanent impairment. Deep or extensive cuts. Tears or wounds to the flesh or tissues – this may include stitching to prevent loss of blood and/or other treatment to prevent loss of bodily function and/or infection.

Notification is also required for:

- an injury or illness requiring medical treatment (by a doctor) within 48 hours of exposure to a substance
- a fractured bone other than in a hand (including finger) or foot (including toe)
- the following prescribed serious illness:
 - any infection to which the carrying out of work is a significant contributing factor, including any infection that is reliably attributable to carrying out work:
 - with micro-organisms
 - that involves providing treatment or care to a person
 - that involves contact with human blood or body substances
 - that involves handling or contact with animals, animal hides, skins, wool or hair, animal carcasses or animal waste products

- the following occupational zoonoses contracted during work involving handling or contact with animals, animal hides, skins, wool or hair, animal carcasses or animal waste products:
 - Q fever
 - Anthrax
 - Leptospirosis
 - Brucellosis
 - Hendra virus
 - Avian Influenza.

2.2. Dangerous incidents

These include certain types of incidents that are inherently dangerous and other incidents where a person is exposed to a serious risk to their health or safety emanating from an immediate or imminent exposure to the hazard.

For most hazards, such as plant or a structure collapsing, a person will need to be in the immediate vicinity to be exposed to a serious risk to their health or safety. But some hazards, such as an uncontrolled leak of a hazardous gas or a fire, can travel towards a person and expose them to a serious risk to health and safety away from the original source.

A dangerous incident can include situations where there is an immediate exposure to the hazard, but the potential harm to a person's health or safety may not materialise until sometime in the future, for example exposure to asbestos or chemicals.

The following are reportable as a dangerous incident if a person is exposed to a serious risk to their health or safety from immediate or imminent exposure to a hazard:

- an uncontrolled escape, spillage or leakage of a substance
- an uncontrolled implosion, explosion or fire
- an uncontrolled escape of gas or steam
- an uncontrolled escape of a pressurised substance
- the fall or release from a height of any plant, substance or thing
- the collapse, overturning, failure or malfunction of, or damage to, any plant that is required to be authorised
- the collapse or partial collapse of a structure
- the collapse or failure of an excavation or of any shoring supporting an excavation
- rock falls, instability of cliffs, steep slopes or natural dams, occurrence of sinkholes, development of surface cracking or deformations or release of gas at surface, due to subsidence
- a vehicle or plant making contact with an energised source having a voltage greater than 1200 volts (not including testing equipment applied to energised equipment in accordance with the WHS Regulations)
- the inrush of water, mud or gas in workings at an underground excavation or tunnel

- the unintended interruption of the main system of ventilation at an underground excavation or tunnel
- the loss of control of heavy earthmoving machinery (including any failure of braking or steering)
- the unintended activation, movement, or failure to stop of vehicles or machinery
- a collision involving a vehicle or mobile plant
- damage to, or failure of any part of, a powered winding system or a shaft or shaft equipment
- damage to any plant or structure
- a failure of ground, or of slope stability control measures.

The following incidents are also dangerous incidents that must be notified to the Regulator, even if no one was in the vicinity at the time of the incident:

- a fire in the underground parts of a mine, including where the fire is in the form of an oxidation that releases heat and light
- an electric shock to a person (other than a shock from an extra low voltage source)
- any initial indication that any underground part of a coal mine is subject to windblast, outbursts or spontaneous combustion
- the unintended overturning of any vehicle or plant weighing more than 1000 kilograms
- ejection of fly rock so that it falls outside an exclusion zone (the area from which people are excluded during blasting)
- any initial indication that there may be a fault in the cementing of a casing string forming part of the cement casing of a well
- spontaneous combustion at a coal mine
- a gas outburst at an underground coal mine
- a coal burst or rock burst at an underground coal mine.

2.3. Only work-related incidents are notifiable

Only incidents arising out of the conduct of a business or undertaking at the mine or petroleum site must be notified. There may be cases where an incident occurs at a workplace but does not arise out of work.

2.4. Work-related incidents that occur outside a workplace may be notifiable

Even where a death, serious illness or injury or exposure to a dangerous incident occurs outside the workplace, notification will be required where that incident arises out of the conduct of a business or undertaking at the mine or petroleum site. For example, fumes from shot-firing causing illness to a person adjacent to the mine, or a chemical spill at a mine or petroleum site that exposes residents nearby to health and safety risks.

2.5. Still unsure?

If you are still unsure about whether an incident should be notified, contact the NSW Resources Regulator on 1300 814 609 for guidance.

2.6. When and how to notify a notifiable incident

The Regulator must be notified of a notifiable incident immediately by the fastest possible means. This would normally be by telephone to the central reporting number 1300 814 609.

Further written notification is to be made using the online incident notification form on the Regulator's website at: www.resourcesandenergy.nsw.gov.au/miners-and-explorers/safety-and-health/notifications/incident-or-injury.

2.7. Who is responsible for notifying?

All persons conducting a business or undertaking (PCBUs) at a mine or petroleum site, including the operator of the mine or petroleum site, have a duty to ensure that the Regulator is immediately notified of a notifiable incident arising out of the conduct of their business or undertaking at the mine or petroleum site. This does not mean that both the operator and a contractor must notify the Regulator, only that notification is made. In these circumstances, the duty holders must, so far as is reasonably practicable, consult, cooperate and coordinate and should put appropriate reporting and notification arrangements in place. For example, contractors at the mine or petroleum site may agree with the operator of the mine or petroleum site that the operator will notify of all 'notifiable incidents' that occur at the workplace.

If another PCBU at the mine or petroleum site notifies the Regulator of a notifiable incident, they must also ensure that the operator of the mine or petroleum site is notified as soon as is reasonably practicable after doing so.

In general, a PCBU that is a corporation is considered to be aware of a notifiable incident at the time that any of their workers in supervisory or managerial roles become aware of that incident. For example, if a worker is seriously injured and notifies their immediate supervisor, this is when the operator of the mine or petroleum site is considered to be aware of the incident. Operators and other PCBUs working at a mine or petroleum site should develop appropriate internal communication procedures to ensure compliance with their notification obligations.

When the incident occurs at a coal mine, the mine operator or other PCBUs must also ensure that an industry safety and health representative is notified and provided the same information as required by the Regulator.

2.8. Can work continue where a notifiable incident occurred?

When a notifiable incident has occurred, each person required to ensure the Regulator is notified, and any other PCBU with management and or control of the workplace is to ensure, so far as is reasonably practicable, that the site of the incident is not disturbed until an inspector arrives at the site or directs otherwise (whichever is earlier).

Requirements to preserve the incident site apply to any plant, substance, structure or thing associated with the notifiable incident. This ensures that any evidence that may help an inspector determine the cause of the incident is preserved.

However, the requirement to preserve the site does not prevent any action:

- to assist an injured person
- to remove a deceased person
- essential to make the site safe or to minimise the risk of a further notifiable incident
- associated with a police investigation
- for which an inspector or the Regulator has given permission.

An inspector who considers that a site should remain undisturbed (for example, to facilitate investigation of the incident) may issue a non-disturbance notice. This notice must specify the period for which the notice is to apply, but cannot be for more than seven days.

Penalties apply for failing to preserve a site.

2.9. Site preservation requirements apply only to the incident site

The requirement to preserve the site may not necessarily extend to the whole workplace. For example, in the case of a multiple vehicle collision, the site would include the immediate area where the incident occurred and the vehicles.

If unsure about what is required to preserve a site, ask the Regulator for guidance when notifying of the incident.

2.10. Upgrading notifications

If a notifiable incident escalates from serious illness or injury to death, the Regulator must be separately notified of the death immediately after becoming aware of the death. The Regulator must also be notified in an incident that did not originally involve injury or illness. For example, a dangerous incident escalates such that it is now notifiable on additional grounds.

2.11. Record-keeping requirements

A record of every incident notified to the Regulator must be kept with the mine or petroleum site record for at least seven years from the date the record is made. Penalties apply for failing to do so.

NOTE: A record of certain notices issued in respect of the incident, such as a non-disturbance notice, must also be kept.

2.12. What type of information must be provided

See section 4 Information needed when notifying an incident.

3. Other incidents that must be notified

Notification is also required for other incidents as set out below:

Type of other incident	When and how
<p>An incident that results in illness or injury that requires medical treatment by a doctor, being the management or care of a patient including:</p> <ul style="list-style-type: none"> → the suturing of a wound → the treatment of fractures → the treatment of bruises by drainage of blood → the treatment of second and third-degree burns → but not including diagnostic procedures, observation, counselling, first aid or therapeutic measures taken solely for preventative purposes. 	<p>Notification must be made as soon as possible and no later than 48 hours of becoming aware the incident resulted in an injury or illness.</p> <p>Notification must be in writing using the Notification of incident and injury form.</p>
<p>A high potential incident.</p>	<p>Notification must be as soon as possible and:</p> <ul style="list-style-type: none"> → in the case of a high potential incident that resulted in an injury or illness, no later than 48 hours after becoming aware the incident resulted in an injury or illness, or → no later than 7 days after becoming aware of the incident (whichever is earlier). <p>Notification must be in writing using the Notification of incident and injury form.</p>

3.1. Medical treatment by a doctor

Medical treatment refers to treatment by a registered medical practitioner, such as a doctor. It does not include treatment by an allied health professional, such as a paramedic or nurse.

For the purposes of notifying other incidents or completing a mine quarterly report, the management or care of a patient by a doctor involving any of the following matters is medical treatment:

- the suturing of a wound
- the treatment of fractures
- the treatment of bruises by drainage of blood
- the treatment of second and third-degree burns.

Other management or care of a patient by a doctor may also constitute medical treatment, unless it is diagnostic procedures, observation, counselling, first aid or therapeutic measures taken solely for preventative purposes.

The first question to consider is whether the treatment involved care or management of the patient by a doctor (other than diagnostic procedures, observation, counselling or first aid). The **First aid in the workplace code of practice** (July 2014) states that: “First aid is the immediate treatment or care given to a person suffering from an injury or illness until more advanced care is provided or the person recovers”. Unless a doctor provides immediate treatment or care of the patient, it is unlikely to be first aid.

A second question to consider is whether the care or treatment is solely for preventative purposes. Treatments for preventative purposes may include a tetanus injection, vaccination or other treatments to prevent an illness because a person may have been exposed to a harmful substance or agent. If the therapeutic measure was solely for preventative purposes, it is not medical treatment for the purposes of notifying other incidents or completing mine quarterly reports.

3.2. High potential incidents

There are two groups of incidents that are high potential incidents. Firstly, there is an incident or event that would have been a dangerous incident (see above) if a person were in the vicinity at the time when the incident or event occurred and in usual circumstances a person could have been in that vicinity at that time.

The important element in this group of incidents is that a person could have been present, and if so that the person would have been exposed to a serious risk from an immediate or imminent exposure to a hazard. For example, events that happened within an area that is fenced off from entry or events in other exclusion areas.

The second group of high potential incidents is:

- the detection of 2% by volume or greater concentration of methane in the general body of the air at an underground coal mine (other than in a sealed area or goaf)
- an unplanned fall of ground, roof or sides that impedes passage, extends beyond the bolted zone or disrupts production or ventilation
- a failure of ground support where people could potentially have been
- the burial of machinery such that it cannot be recovered under its own tractive effort
- progressive pillar failure or creep
- a sudden pillar collapse
- an electric arc occurring in the hazardous zone at an underground coal mine that is directly observed, or which leaves visible evidence on an electric cable
- an injury to a person (supported by a medical certificate) that results, or is likely to result, in the person being unfit, for a continuous period of at least seven days, to perform their usual activities at work

- a misfire or unplanned explosion of a blasting agent or explosive or explosive precursor (but not in the case of a misfire at a mine or petroleum site other than a coal mine if the misfired explosive can be fired without any significant risk to a person)
- an unplanned event that causes the emergency evacuation of more than one person from the mine or petroleum site or part of the mine or petroleum site
- an unplanned event that causes fewer than two exits from an underground mine to be available for use
- any indication from monitoring data of the development of subsidence that may result in damage to any plant or structure or a failure of ground
- the illness of a person (supported by a medical certificate) that is related to a work process and that results, or is likely to result in the person being unfit to do their usual activities at work for a continuous period of at least seven days
- the failure of the explosion-protection characteristics of an explosion-protected plant while it is in service at an underground coal mine¹
- the presence of energised electrical plant that is not explosion-protected in a hazardous zone at an underground coal mine (except where the use of the plant is permitted under clause 79 of the Regulation²)
- the detection of an atmospheric concentration of respirable dust that exceeds the level specified in clause 39(1)(a) (3 milligrams per cubic metre of air, or in the case of a coal mine, 2.5 milligrams per cubic metre of air)
- the detection of an atmospheric concentration of crystalline silica that exceeds the exposure standard specified in the Workplace Exposure Standards for Airborne Contaminants (0.1 milligrams per cubic metre of air)
- electrical plant that is powered by an internal battery is lost or misplaced in an underground coal mine.

¹ The failure of the explosion-protection characteristics of explosion-protected plant while that plant is in service at an underground coal mine is not limited to failure while the plant is operating (i.e. turned on and running). It includes any explosion-protection characteristic failures identified during routine maintenance or overhaul, as well as those identified during use. Such failures indicate that an explosion-protected plant has been (or is likely to have previously been) operating in a non-explosion-protected condition.

² Portable electrical plant may be used in the hazardous zone of an underground coal mine if:

- the concentration of methane in the general body of the air is 0.5% by volume or less, and
- the plant is powered by internal batteries, and
- the temperature of any surface of any component or part of the plant is not greater than 150°C, or if the surface is wholly internal to the plant and the plant has a level of ingress protection sufficient to prevent coal dust coming into contact with the surface – 450°C, and
- the plant does not in normal operation produce hot surfaces or sparks that could ignite methane, and
- the mine operator has implemented control measures to manage the risk of the plant becoming an ignition source.

Electrical equipment associated with hot work may be used in the hazardous zone of an underground coal mine if the mine operator has complied with the notification of high risk activities in clause 33 of the Regulation.

Insulation test instruments may be used in the hazardous zone of an underground coal mine if the instruments are used in accordance with the procedures for using those instruments developed under the electrical engineering control plan for the mine.

For explosion-protected diesel engine systems, this means that the plant may have been operating in a condition which has potential to ignite an explosion of dust or gas (such as coal dust on the surface of the engine) or methane in the surrounding atmosphere. An ancillary report is required for such incidents. Examples of such failures include:

- the failure of an explosion-protected open joint which exceeds the specified dimensions for explosion protection
- the failure of a diesel engine system to shut down when required by the control sensors (e.g. loss of water in the scrubber), excessive system temperature (above 150° C), failure of engine cooling system, etc.
- a catastrophic failure of the diesel engine system which protrudes external to the engine (such as turbochargers, superchargers, piston, valves, connecting rods, etc.)
- the failure to replace any explosion-protected component (such as a cap, plug, flame trap, gland or other like component) after carrying out maintenance activities
- evidence of thermal degradation of an exhaust filter
- looseness of any explosion-protected fixed joint (gasket joint).

3.3. Only work-related incidents are notifiable

The only other incidents that must be notified are those arising out of the carrying out of mining operations at the mine or the carrying out of petroleum operations at the petroleum site. As with notifiable incidents there may be cases where, for example, an incident occurs at a mine or petroleum site but does not arise out of mining or petroleum operations at the site, such as a person having a heart attack that is unrelated to work or the workplace.

3.4. Who is responsible for notifying?

The operator of the mine or petroleum site at which the incident occurs must tell the regulator when they become aware of the incident.

In general, an operator of the mine or petroleum site that is a corporation is considered to be aware of an incident at the time that any of their workers in supervisory or managerial roles become aware of that incident. For example, if a worker is seriously injured and notifies their immediate supervisor, this is when the operator is considered to be aware of the incident.

When the incident occurs at a coal mine, the mine operator must also notify an industry safety and health representative.

3.5. Site preservation is not required for other incidents

There is no requirement to preserve the incident site in relation to an 'other incident'.

3.6. Upgrading notifications

If an other incident escalates to a notifiable incident, the regulator must be separately notified of the incident immediately after becoming aware of the escalation.

3.7. Record-keeping requirements

As with notifiable incidents, a record of every incident notified to the regulator must be kept with the mine or petroleum site record for at least seven years from the date the record is made. Penalties apply for failing to do so.

4. Information needed for all incidents

A clear description of the incident (with as much detail as possible) will help the Regulator assess whether the incident needed to be notified and if the Regulator needs to investigate or take other action.

Information	Detail required
What happened: an overview	Provide an overview of what happened. Nominate the type of notifiable incident. For example, was it death, serious injury or illness, or dangerous incident (as defined above)?
When did it happen?	Supply the date and time of the incident.
Where did it happen?	Identify the address of the incident location. Supply details to describe the specific location of the notifiable incident to help instructions about site disturbance. For example, the section of the warehouse or the piece of equipment that the incident involved.
To whom did it happen?	Supply the injured person's name, salutation, date of birth, address, contact telephone number and occupation Include the relationship of the injured person to the entity notifying.
Additional details about the person	Add details about the injured person's roster, travel hours, experience and training.
What happened: detailed description	Provide a detailed description of the notifiable incident.

Information	Detail required
How and where is the injured person being treated (if applicable)?	<p>Include:</p> <ul style="list-style-type: none"> → a description of serious injury or illness (i.e. nature of injury) → initial treatment of serious injury or illness → where the patient has been taken for treatment.
Who is the person conducting the business or undertaking (there may be more than one)?	<p>Include:</p> <ul style="list-style-type: none"> → legal and trading name → business address (if different from incident address), ABN/ACN and contact details including phone number and email.
What has/is being done?	<p>Explain the action taken, or intended to be taken, to prevent recurrence (if any).</p>
Who is notifying?	<p>Supply:</p> <ul style="list-style-type: none"> → the notifier's name, salutation, contact phone number and position at workplace → the name, phone number and position of person to contact for further information (if different from above).

4.1. Information needed for ancillary reports

Additional details may also be required in relation to some types of incidents, such as those involving particular types of plant. These details are referred to as ancillary reports and where required must be submitted no later than 30 days after the incident was required to be notified to the Regulator. Typically, the information needed for ancillary reports is very specific to the type of incident and type of plant, such as fires on mobile plant or failure of explosion-protected plant.

Details of when ancillary reports must be submitted are included in the online incident form.

5. Explosives Act 2003

Licence holders under the *Explosives Act 2003* also have obligations to notify the regulator of certain incidents involving explosives. See [Incidents to be reported under explosives legislation](#) for more information.