



Order 42 Explanatory Note

The Minister for Primary Industries approved **Order No. 42 Coal Services Pty Limited – Monitoring Airborne Dust** by notice in the Government Gazette on 11th February 2011.

The Order gives powers to Coal Services Pty Limited inspectors to enter coal mine operations for the purposes of monitoring airborne dust, collecting dust samples, and other functions and activities necessary to monitor airborne dust.

Potential changes to coal mining and national occupational health and safety legislation had raised some concerns that the system that had produced world's best practice in dust monitoring and health outcomes may reduce the protection provided by specific legislation for a known health risk. The specific controls and procedures in place at the time in NSW coal mining may no longer have been mandated but replaced with a regime that was yet to be proven to maintain current status. The risk was too great with mineworkers' health.

The newly introduced Order 42 achieves the very sensible outcome of having both the duty and the standard in the one place; the *Coal Industry Act 2001* (NSW). The current web of overlapping legal duties had been a constant source of frustration for mine managers and others who have had to search through various Acts, Regulations, Australian and International Standards, Codes of Practice and Guidelines.

Coal mine operations that choose to select Coal Services Pty Limited to perform their *Work Health and Safety (Mines) Act 2013* monitoring will see no difference. The Order is very closely aligned to the current *NSW Work Health and Safety (Mines) Regulation 2014*.

Coal Services Pty Limited has produced this information package for all industry stakeholders to explain the implications of Order 42 and to reinforce our commitment to a healthy work environment and the continued elimination of lung disease.

What is Order 42?

Coal Services Pty Limited developed Order 42 under the authority granted to it by the *Coal Industry Act 2001* (NSW). Order 42 requires that Coal Services Pty Limited undertake airborne dust monitoring which includes collection and analysis of samples at all NSW coal mine operations to a prescribed standard, including location and frequency. Coal mine operators must grant access to Coal Services Pty Limited Inspectors to perform this task.

Why was it put in place?

To ensure that a system that has protected mineworkers' health and eliminated lung disease remains effective. Potential changes to legislation through the national harmonisation process may move the focus away from the current specific risk controls in this area.

Order 42 will also clarify the specific duties of Coal Services Pty Limited under the *Coal Industry Act 2001* (NSW). At present, a general duty to monitor is contained in the *Coal Industry Act 2001* (NSW), but the specific standards are contained in the *Work Health and Safety (Mines) Act 2013*. Order 42 places all requirements in one legislative framework.

Must I use Coal Services Pty Limited to conduct dust monitoring?

Coal mine operators must allow Coal Services Pty Limited to conduct dust monitoring in accordance with Order 42 to comply with their duties outlined in the *Coal Industry Act 2001* (NSW).

Coal mine operators must use a licensed provider to sample and analyse airborne dust under Part 9 of the *NSW Work Health and Safety (Mines) Regulation 2014*. Coal Services Pty Limited can provide this service concurrently with Order 42 sampling. Alternatively, a coal mine operator may choose to allow another licensed provider to perform this service.

Will Coal Services Pty Limited charge Operators for this service?

Coal Services Pty Limited will not charge for monitoring conducted to satisfy their duties under the *Coal Industry Act 2001* (NSW).

Coal Services Pty Limited will continue to charge for monitoring to satisfy coal mine operators' requirements under the *Work Health and Safety (Mines) Act 2013* if required to provide that service.

Will the Standing Dust Committee continue to operate?

The Standing Dust Committee will continue to visit mines and observe work practices as they have done for more than 50 years. This expert advisory body combines representatives from industry and will continue to focus on monitoring the results of respirable and inhalable dust samples, evaluating dust hazards, research improved dust control methods, disseminate and communicate information, and educate coal mines' personnel in matters related to dust control.

What will change?

Nothing will change if coal mine operators choose to continue using Coal Services Pty Limited to provide both *Coal Industry Act 2001* (NSW) and *NSW Work Health and Safety (Mines) Act 2013* monitoring.

Coal mine operators can choose to select an alternative licensed provider for *NSW Work Health and Safety (Mines) Act 2013* monitoring. This will be in addition to monitoring performed by Coal Services Pty Limited.

Who should I contact for further information?

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