

# Safety Alert

Office of the Commissioner for Mine Safety and Health

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## Rail corridors on coal mine sites

The recently commenced *Transport (Rail Safety) Act 2010* (TRS Act) affects health and safety obligations related to work undertaken within rail corridors. As a result, the Queensland Mines Inspectorate, the Queensland Transport Rail Safety and Security Division and Workplace Health and Safety Queensland wish to clarify obligations relating to rail corridors on, adjacent to, or contiguous with a coal mine.

Generally, the *Coal Mining Safety and Health Act 1999* (the CSMH Act) applies to mining operations at any coal mine. Consequently, the *Work Health and Safety Act 2011* (the WHS Act) does not apply to a situation covered by the CSMH Act.

However, the TRS Act now covers activities that are *'rail operations, rail safety work or other activities associated with railway operations'*. Importantly, the TRS Act also captures *'associated track structures'* and *'rail infrastructure'*. In any of these situations, the CSMH Act is overridden and the TRS Act, in conjunction with the WHS Act, regulates any health and safety obligations.

For example, a train load-out facility on a mine site interfaces with the railway and enables the loading of coal into rolling stock. This load-out facility may also be considered to enable the safe operation of the railway as it prevents excess coal from derailing the rolling stock. As a result, the facility falls into the category of associated track structure and rail infrastructure, and is captured by the TRS Act. The regulation of safety issues connected with the construction, maintenance, operation and modification of the load-out facility is then covered by the TRS and WHS Acts and the operator of the facility, its employees and its contractors all have specific obligations under these Acts. However, note that the operator, its employees and its contractors

*Every miner home safe and healthy every day*

may still have obligations under the CSMH Act that are not covered by the TRS and WHS Acts.

The existence of a rail corridor does not automatically invoke the TRS Act. For example, a haul road bridge constructed over a railway track provides access between two areas of a mining lease and is not automatically considered to be an associated track structure. In an instance where the TRS Act does not apply, the CSMH continues to apply and neither the TRS nor the WHS Acts apply to the regulation of safety issues connected with the bridge. However, it is important to note that there may be a requirement for an interface agreement to exist between the road manager and the rail infrastructure manager.

Another example is the operation of machinery, such as a conveyor, within a rail corridor. A conveyor will generally interface with the train load-out facility and carry coal to it. The coal will then be loaded into rolling stock by means of the load-out facility. Though part of the conveyor is usually within the rail corridor, the sole purpose of the conveyor is to carry coal to the train load-out facility. The conveyor works in association with the load-out facility and not with the railway track itself. As such, the conveyor is not an associated track structure nor is it rail infrastructure. Therefore, the regulation of any safety issues connected with the conveyor will remain with the CSMH Act.

Given the interaction of these Acts, possible obligation holders should seek independent legal advice on which legislation might apply to them in particular scenarios. Any actual incident within a rail corridor on, adjacent to, or contiguous with a coal mine will involve investigators from the Queensland Mines Inspectorate, Workplace Health and Safety and the Queensland Transport Rail Safety and Security Division.

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