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Reference	Provision	Comment
1	3 Definitions	CCAA notes that T&I is currently completing an analysis of the definitions of a mine and mining activity within the Act. We consider this to be highly important and request that the industry be consulted on the analysis prior to the implementation of the regulation.
2	9 (5)(a)	This clause requires clarification. How is competency to be determined? Is it a competent person to manage the risk or a person competent in conducting risk assessments? Competencies in this regard must not be required to be outsourced to be achieved. As such, CCAA considers that the term "competency" requires further clarification and defining. In this regard, we recommend that "competency" be defined as follows: "means the combination of knowledge, experience and capability", as determined by an agreed upon due process. Additionally, CCAA believes that the requirement to keep a copy of each and every risk assessment to be highly impractical and virtually precludes conducting informal risk assessments. The act of conducting a risk assessment is important, and recording the outcome of a risk assessment is likewise important, but not necessarily the risk assessment itself.
3	13 (3)	CCAA strongly considers that the intent of this clause is achieved through the implementation of clauses 13 (1) and (2); as such this clause can be deleted.
4	13 (8)	CCAA considers that it is imperative that this clause read as follows: "The safety management system must be documented and be proportionate to the nature of the operations and the complexity of the risks associated with the operation."
5	14 (1)(e)	CCAA believes that this clause is too prescriptive and represents an excessive regulatory and administrative burden, especially for smaller operators. The regulations must only require an organisation chart that shows positions and responsibilities and there must be guidance that provides compliance support, especially for smaller operators.
6	14 (2)	CCAA considers that this clause should be 14(1) and that the current 14(1) should be 14(2). This is due to the fact that the current 14(2) influences the reading and interpretation of 14(1) and as such should be read first. Additionally, the current 14(2)(a) should read as follows: "contain a level of detail of the matters referred to in subclause (1) that is proportionate and appropriate to the mine having regard to:". This will ensure that the proportionality principle introduced in clause 13(8) is strengthened throughout the regulations.
7	16 (1) and (2)	CCAA strongly believes that these clauses should not be applied to the extractive sector. It goes well above current requirements and represents a significant regulatory and administrative burden, especially for smaller operators.

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8	18 (1)	Organisations that operate a lot of sites will find this clause to be very onerous, especially if it falls outside of the organisations business cycle of reviewing plans and systems. CCAA recommends that the 12 month timeframe detailed in this clause be subject to a caveat of "or as soon as reasonably practicable". Additionally, clarification is required as the intent of the clause is confusing due to the words "commencement of mining operations at the mine". This could be interpreted such that the 12 months only applies to those new mines commencing after the commencement of this Regulation, or that all safety management systems must be reviewed within twelve months of the commencement of this regulation.
9	20 and 21	CCAA request that the "must ensure" within these two clauses be subject to a caveat of "as soon as reasonably practicable".
10	23 (3)(f)	CCAA strongly considers that the cumulative aspect within this clause makes it very difficult to implement in the extractive sector. As such, we recommend that this clause be subject to the caveat of "as far as reasonably practicable". Further, the intent of clause 23 (3)(f) is very similar to that in clause 23 (3)(b). These two clauses could be combined into one clause, with clause 23 (3)(f) being deleted.
11	25 and 26	CCAA believes that these two clauses need further consideration as to how they will be implemented and on their impact on operations. For example, in the extractive sector most contractors utilise, or "buy-in-to", the safety management plan developed by the mine operator and do not need to develop their own safety management plan. This clause will result in duplication of effort, without a corresponding improvement to health and safety outcomes. CCAA strongly believes that the outcome of this regulation should be to ensure that a risk management process is implemented, not an increase in paperwork. For instance, the option should exist for the mine operator to accept a contractors own safety management system, such as for specialists like Orica, or to require a contractor to adopt the mine's safety management system, such as for the majority of contractors on a mine.
12	26 (5)(b)	CCAA considers that this clause should be amended so that the mine operator only needs to provide consent to the contractor regarding their safety management plan, and not need this to be done in writing. If this is not done this clause will represent a significant regulatory and administrative burden, especially for smaller operators. Additionally, the clause should be amended to require contractors to notify the mine operator if there are significant changes to their safety management plan. Further, if the option is included for a mine operator to accept a contractor's safety management system, clause 26(5) is redundant.

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13	Division 4	CCAA considers that this division is too prescriptive and that the majority of its content belongs in codes of practice. As such, clauses 27 to 38 should ideally be covered by a "code of practice", but if then this may not be possible, then the following comments related to those provisions are suggested.
14	27	This clause describes one methodology for communication between shifts even though there are many alternative methodologies that could be applied; as such this clause belongs in a code. If it is to be maintained, CCAA recommends that (a) to (d) be collapsed into a simple objective statement, such as "the supervisor of the outgoing shift effectively communicates with the on-coming shift supervisor who will pass on relevant information to their shift workers".
15	29 (2)(d)	The requirement to inspect conveyor belts every 8 hours is not appropriate for the extractive industry and as such the industry should be exempt from this clause as it is more appropriate for underground mines. If it is to be applied to the extractive sector then it should be less prescriptive and instead read as follows: "…inspected or monitored to detect any likelihood of over-heating that might cause a fire".
16	31	Seismic activity is a risk for underground mines and the extractive industry should be exempt from this clause. If the extractive sector is not exempted then a definition of seismic activity must be included to ensure that blasting-related and normal stress-relieving micro-seismic activity is not being captured by this clause.
17	32 and 33	These clauses are very "clunky" and would be difficult for operators to implement as they are not aligned with the principles of risk management that are the foundation of the regulations. Also clause 32 is redundant due to the requirement for explosives control plans as stipulated in clause 25(6), and Schedule 2 clause 4. Also operators must also comply with AS 2187.
18	34	This clause represents a significant regulatory and administrative burden, especially for smaller operators. As such, the extractive industry must be exempted from this clause as it is impractical for a mine operator to notify the regulator, in the prescribed manner, each time an overburden area is moved as required in Schedule 3. CCAA recommends that this be achieved by the word "coal" being inserted before "mine" so that clause 34 reads as follows: The mine operators of a coal mine must ensure…"
19	37 (2)	The "within sight" requirement in this clause is impractical in real life operations and represents an unrealistic requirement.

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20	38	CCAA considers that this clause should not be applied to the extractive industry as it represents a significant regulatory and administrative burden, especially for smaller operators. Rather, our industry should conduct conventional workplace inspections, which should be an integral component of a safety management system. As such, this clause must be collapsed into an objective statement as part of the safety management system.
21	88	CCAA believes that this clause is highly impractical for the extractive sector. This is due to the large number of operating quarries and the incapacity of emergency services and local authorities being able and willing to consult with all quarries. As such, the extractive sector should be exempted from this clause or at the very minimum the clause should be subject to a caveat of "where reasonably practicable".
22	102 (1)(c) and (1)(d)	CCAA considers that the intent of these two clauses is effected through the implementation of clauses 102 (1)(a) and (1)(b). As such these clauses do not provide any additional benefits and must be deleted.
23	103 (2)(c)	CCAA recommends that the words "relevant parts of" be inserted in-between "the content and implementation of" and "the safety management system for the mine". As such the clause should read as follows: "the content and implementation of the relevant parts of the safety management system for the mine". This applies especially to contractors, visitors and technical specialists who are only required to know the relevant parts.
24	103 (3)	If the requirement for a mine operator to train and assess all workers in basic risk management techniques is extended to contractors then this represents a very onerous regulatory burden. PCBUs operating at a mine should be required to train and assess their workers ability to conduct basic risk assessments, not the mine operator. CCAA also recommends that the words 'and assessed as being competent' be deleted as this is too easily interpreted as being assessed by a Registered Training Organisation.
25	104	CCAA recommends that the word "relevant" be inserted between "provide the worker with knowledge of all" and "aspects of the safety management system". As such the clause will read as follows: "…provide the worker with knowledge of all relevant aspects of the safety management system…".
26	108	This clause should be expanded to include all competent persons, such as allied health practitioners that are appropriately trained as hygienists and therapists who have experience in monitoring workers' health.
27	108 (1)(4)	The term "adverse health effects" needs to be defined and clarified.
28	110 (1)	This clause should be expanded to include any competent persons, such as allied health practitioners and appropriately trained hygienists and therapists who have experience in monitoring workers health.
29	110 (2)	This clause should refer to the requirement to consult with "workers" not "worker". The need to consult with each individual worker with regards to the selection of a registered medical practitioner could result in excessive cost to the industry for no real health and safety benefit. If this is not amended it represents a significant regulatory burden.
30	111	This clause needs to be clarified to ensure that PCBUs pay for the cost of health monitoring for contractors and not the mine operator.
31	116	The mine operator should only be required to hand over a summary of a health monitoring report as there may be confidentiality issues.

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32	117(a)	CCAA considers that this clause should read as follows: "any advice indicating any significant adverse health effect resulting from exposure to a risk associated with the mining operations, or"
33	118	CCAA considers that all health monitoring reports should be electronically forwarded to the Regulator for storing if a PCBU ceases operations. This is so source material is available to enhance the validity of any epidemiological research that may need to be conducted.
34	121 (1) and 122	CCAA strongly disagrees with the practice of defining the size of a mine through the number of persons working at the mine. The number of workers has zero correlation to the size of the operation and is not relevant to the risks that need to be controlled or complexity of the operations. Rather, CCAA considers that the mine operator must be able to conduct a risk assessment of their mine to determine if it requires a survey plan to be completed by a certified mining surveyor. Additionally, mine operators must be given the option of contacting a mine surveyor, rather than employing one full time as implied by term "a mining surveyor at a mine" being used rather than "a mining surveyor for the mine".
35	127 (4)(a)	CCAA considers that the word reasonably should be inserted into this clause, as follows: "…in usual circumstances a person could have reasonably been in the vicinity at that time,".
36	127 (4)(j)	This clause should read as follows: "a significant misfire or unplanned explosion…".
37	127 (4)(l)	This clause only applies to underground mines and it should be noted as such.
38	127 (4)(o)	CCAA is concerned that there may be many instances that are covered by this clause that would not meet the definition of high potential incident and cause unnecessary administration. For example, a worker who receives a minor sprain may receive a work restriction for seven days as a precaution that prevents them from carrying out their normal duties. This is not a high potential incident as the worker is able to complete another role at the mine, such as weighbridge operator. However, it is covered by this clause as the person has been unfit for the usual job for seven days even though no high potential incident has occurred.
39	127 (4)(p)	Add the word "a" between "perform" and "person's" so that it reads as follows: "…to perform a person's usual activities…".
40	128 (6)(h), (k) and (j)	CCAA questions the need of these three clauses. We do not consider that they will enhance health and safety outcomes, but rather represents a regulatory and administrative burden on the industry, especially for smaller operators. CCAA also considers that clauses (h) to (l) must be addressed in a code of practice.
41	129 (2)(a)	CCAA strongly supports and encourages the capacity to provide quarterly reports on an annual basis. Additionally, this will require a name change.
42	Part 8	CCAA does not support the rigid application of statutory positions and practicing certificates. CCAA believes that flexibility needs to be built into the system to allow mine operators to employ workers based on their current competency not based on holding regulated certificates that can be outdated.
43	133(a)	CCAA does not believe that the introduction of the "site senior executive" statutory position is necessary in NSW.

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44	137 (2)	CCAA believes that this clause should be based on experience not age and in this case we consider that a minimum of three years is sufficient.
45	139 (4)	CCAA believes that the time period for a practising certificate to remain in force should be 5 years, not 3, to bring it into line with other similar licences, such as the drivers licence. We also believe that 5 years should apply to shot-firers licences.
46	144 (2)(d)	This clause should be deleted as its intent is covered by 144 (2)(a), (2)(b) and (2)(c).
47	175	This clause should only be applied to underground mines and it is too onerous for the extractive sector.
48	176	This clause duplicates what is in the WHS Regulations and is not required in this regulation. Additionally, it is too prescriptive and belongs in a code.
49	177 (f)	Clause (f) must be deleted and its intent built into clause (a).
50	180	This clause must be deleted, as it serves no health and safety related purpose.
51	Schedule 1	This schedule must have a preamble inserted that reads as follows: "A comprehensive risk assessment is to be undertaken for each principal mining hazard and for each foreseeable hazard assessed and included in the principal mining hazard management plan. As a minimum the following are to be considered with the risk assessments:".
52	Schedule 2	A preamble similar to the one to be included into Schedule 1 should be included into Schedule 2.
53	Schedule 2 (1)	CCAA strongly considers that this clause is not clear in its intention. For example, is it trying to manage occupational health, occupational hygiene, workers compensation, return to work, public health and/or personal health. CCAA contends that this clause should focus on risks at work being managed by the mine operator and personal health being managed by the worker. As such, CCAA recommends that further guidance material be developed, in consultation, to ensure that the intent of this clause is made clear and to also ensure that the mine operator is not responsible for workers' personal health issues.
54	Schedule 3	The emplacement area clauses covered in this schedule are extremely onerous for the extractive industry and should only be applied to underground mines. If this occurs then the entirety of Schedule 3 only relates to coal mines and underground mines, not the extractive sector.
55	Schedule 7	A preamble similar to the one to be included into Schedule 1 should be included into Schedule 7.
56	Schedule 9	The reports detailed in this Schedule should be renamed, as they can be submitted annually.
57	Schedule 10	CCAA does not support the introduction of the "site senior executive" statutory position, as it does not add significant value to the industry.
58	Schedule 10, Part 4, 8(3)	The use of the word "engineering" in this clause must be replaced with "extraction", as follows: "…to control and manage mining extraction activities…".

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59	Schedule 10, Part 4, 8(5) and (6)	CCAA strongly considers that the mine operator already has the responsibility to employ workers with current competencies as electrical engineers and electrical tradespersons. We do not consider that for our industry these roles need to be a statutory position. In fact, requiring this will make it extremely difficult for operators to fill these roles and as such these clauses represent a significant regulatory and administrative burden, especially for smaller operators.
60	Schedule 10, Part 4, 8(5)(d)	The requirement of at least 2 years' experience at a mine is not required within the extractive sector.
61	Schedule 12	Due to the large number of operational quarries and borrow pits in NSW CCAA recommends that a transition period of at least 12 months be provided to the industry. We also strongly recommended the development guidance material, such as the Small Mines Health and Safety Kit, to assist the industry in complying with the regulations. Additionally, CCAA strongly believes that the regulation be reviewed within 5 years to ensure that it is achieving its health and safety objectives without causing undue regulatory and administrative burden.