

12 September 2016

Dear Sir/Madam

### CMPA Comments on Victorian OHS Regulations Reform

Thank you for the opportunity to comment on the proposed changes to the Victorian OHS Regulations 2017. The Construction Materials Processors Association (CMPA) that supports responsible, balanced legislation and community engagement that is in the best interests of the State and acknowledges Victoria's Aboriginal communities and cultural heritage.

The CMPA is the peak body in Victoria and is dedicated to the representation, advocacy and service of its Members in the Victorian extractive resources industry. CMPA members are typically small to medium sized family businesses, local government and utilities. Many are regionally based employers (90%) and service local construction, major infrastructure and road maintenance needs.

The following general comments are supplied by CMPA:

- Whilst the need for the review of the OHS Regulations is understood, the Regulations together with the Regulatory Impact Statement came to just under 1000 pages. The CMPA, a small not-for-profit association, has limited resources and so the provision of the "Summary of Changes" document was most welcome, however, this meant that a "line by line" examination of changes proposed to the OHS Regulations was not conducted.
- In the regulatory impact statement consideration was given to expanding the definition of a "mine" to include quarries: it was pleasing to note that the review of the regulations recognised that quarries do not typically give rise to the risks characteristic of underground and remote mining and that the increased regulatory burden that quarries would face if covered by the Mine Regulations was not proportional to the risk characteristics of quarries.

	Proposal	CMPA Comment
Part 3.1 – Hazardous Manual Handling		
1.1.5	Definition of 'hazardous manual handling' – the proposal is to incorporate the existing definitions of 'manual handling' and 'object' which are currently defined separately.	Support
3.1.1 (1)	Hazard identification – remove references to 'task' instead require employers to identify any 'hazardous material handling'	Support
3.1.1 (2)	Hazard identification – remove this regulation and place in guidance material	Support
3.1.3 (1)	Review of risk control measures – remove trigger 3.1.3(1)(b) requiring review of a risk control measure before an object is	No comment

	used for another purpose than that which it was designed. Amend 3.1.3(1)(a) so that it is ensured that employers are required to review a risk control measure before any change to plant or system of work.	
Part 3.2 - Noise		
3.2.4	Remove 3.2.4(2) and 3.2.4(3) which detail matters an employer must consider when providing hearing protectors. They are more appropriate for guidance	Support
3.2.5	Written risk control plan – remove requirement for a written risk control plan where implementation of a higher order risk control measure is delayed by 6 months. Does not reduce safety as the overarching requirement to control exposure to noise is maintained.	Support
3.2.12	Audiological examinations - clarify that the trigger for an audiological examination is a reduction in hearing level of 15db or greater over a 2 year period regardless of how many tests are undertaken over that 2 year period.	No comment
Part 3.3 Prevention of Falls		
3.3.1	Application of part – includes a note to clarify that legislative obligations still apply to the risk of falls below 2 metres.	No comment
Part 3.4 Confined Spaces		
3.4.4	Supplier duties – remove requirement 3.4.4(2) that suppliers eliminate the need to enter a confined space in an item of plant, then it becomes the responsibility of the supplier to eliminate the need for any person to enter the confined space as far as is reasonably practicable. The removal is due to it being unclear as how a supplier would be capable of adequately discharging this duty in practice. However, the requirement of 3.4.4(1) is to ensure, as far as reasonably practicable, the plant has been designed and manufactured in accordance with 3.4.2 and 3.4.3 is retained.	No comment
3.4.15	Employer to retain entry permits – Remove the requirement for an employer to retain a ‘confined space entry permit’ for 30 days and replace it with the requirement for an employer to retain the permit until work is completed or for 2 years in the event of a notifiable incident.	Support
Part 3.5 Plant		
3.5.5, 3.5.6	Operator’s controls and Operational stop controls and emergency stop devices - remove reference to operational stop controls in 3.5.6 because it is adequately covered in 3.5.5. The definition of ‘operator controls will include the term ‘operational stop control’.	Support
3.5.10	Records and information – remove subregulations 3.5.10(1)(b),(c) and (d) requiring a designer keep copies of information sent to	Support

	the manufacturer.	
3.5.10, 3.5.11, 3.5.14	Reduce record keeping duties on designers and manufacturers of plant by reducing the time required to keep records from 10 years to 7 years in regulations 3.5.10(2), 3.5.11(3) and 3.5.14(2)	Support
3.5.13, 3.5.17	Information must be obtained and provided – removing the requirement to ‘obtain information’ from the regulations. The duty to provide information implicitly required the information to be obtained.	Support
3.5.16	General duties – removes the duty imposed on suppliers that requires that hazard identification and risk control requirements placed on designers and manufacturers of plant have been carried out prior to supplying the plant. The general duties placed on suppliers of plant under s30 OHS Act (2004) will be relied upon.	Support
3.5.26, 3.5.27	To maintain consistency between the requirements placed on employers and designers with respect to operator controls and emergency stop devices reference to operational stop controls will be removed in 3.5.27. 3.5.26 will be relied upon for all operator controls including operator stop controls but not emergency stop devices. 3.5.27 will apply solely to emergency stop devices.	Support
Part 3.6 – High Risk Work		
3.6.10	Person may work while application is processed – a licence holder who applies for a licence renewal before the licence expires can perform work until a renewal is granted or until 14 days after being given written notice that the application has been refused.	Support
3.6.11	Authorisation to carry out assessments of competency – it is proposed to insert a provision to explicitly provide that WorkSafe may impose terms and conditions when it authorizes a person to carry out assessments of competency.	No comment
Schedule 3 - Part 1 Licence classes for scaffolding and rigging		
Item 1	Item 1 definitions (dogging) and item 5 dogging licence proposal to amend item 5 to say that the scope of work under the dogging licence is dogging work. Additionally, it is proposed to redraft the existing definition of dogging to provide clarity that a dogging licence is required if either of the following applies: the activity requires the application of slinging techniques; or the load is being moved outside the view of the operator.	No comment
Schedule 3 – Part 2 Licence classes for crane, hoist and fork lift truck operation		
Item 9	Definitions (forklift truck) – proposes to exclude low lift pallet trucks from the definition of ‘forklift truck’. A forklift truck operation licence will not apply to the operation of low lift pallet trucks.	Support

Item 15	Vehicle loading crane - Amend scope of work for vehicle loading crane operation licence to include the application of load estimation and slinging techniques to move a load with a vehicle loading crane. Consistent with Model WHS Regulations.	No comment
Item 27	Order-picking forklift operation licence – proposal to narrow the types of order picking forklift trucks requiring an operator with a high risk work licence. A person operating order picking forklift trucks that lift less than 900mm would no longer need to apply for a high risk work licence.	Support
Part 4.1 – Hazardous Substances		
	Recast the regulations to the Globally Harmonized System of Classification and Labelling of chemicals (GHS) terminology	Support
4.2.3	Requirement to hold carcinogens licence – exemption 4.2.3(4) is limited to suppliers who store these substances for a short term only before passing onto the customer	
Part 4.3 - Asbestos		
4.3.19, 4.3.34	It is proposed to apply Division 5 and 6 regardless of whether there is fixed and installed asbestos present in the workplace to allow for asbestos contaminated soil or asbestos contaminated dust.	No comment
4.3.19, 4.3.34	It is proposed to allow a person to assume asbestos is not present if the building, structure, ship or plant was built or made on or after 31 December 2003 and no asbestos has been identified and asbestos is unlikely to be present. Note it is not intended that an employer would need to ‘search’ for asbestos.	Support
4.3.49, 4.3.90	Introduces a requirement for licence removal work that employers who have been informed of asbestos removal should inform their employees in the immediate and adjacent areas.	Support
4.3.59, 4.3.80, 4.3.111	It is proposed to remove the requirement to notify WorkSafe of the name and contact details of registered medical practitioners engaged to undertake medical examinations.	Support
Division 7	Removal of asbestos – proposal to incorporate Dangerous Goods Order 2007 into the Regulations. This means that the Regulations will be extended to regulate the removal of asbestos that is not fixed or installed.	No comment
Part 5.1 - Construction		
5.1.6	Self-employed person to have the same duties as an employer – it is proposed to remove the provision which specifies that self-employed persons have the same duties as an employer. A self-employed person will now be specifically referenced in any regulation where a self-employed person has a duty and where such a duty is required to be compliant with the OHS Act.	No comment
Draft 331	Emergency procedures – it is proposed to include a new regulation which requires employers and self-employed persons	The CMPA has developed Guidelines for Working

	to develop emergency procedures if there is a risk of a person becoming engulfed by soil or other material when construction work is being performed.	Safely with Geotechnical Risk in Quarries – launched by Minister D’Ambrosio in February 2016
Part 6.1 – Licences and Part 6.2 - Registration		
6.1.1	Matters to be included in licence applications - Closes transition period for conversion of old certifications to high risk work licences.	No comment
6.1.9	Additional information to be included in licence applications – it is proposed to amend 6.1.9(b) to require an application for a high risk work licence to include a notice of assessment (satisfactory) and remove references to statements of attainment (no longer recognised).	Support

If you would like any further information please do not hesitate to contact me.

Yours sincerely



Dr Elizabeth Gibson  
General Manager