



NSW DEPARTMENT OF
PRIMARY INDUSTRIES



Guidance Note
GNC-003

NSW DPI Guidance Note **Preparing a health and safety** **management system**

Coal Mine Health and Safety Act 2002
Coal Mine Health and Safety Regulation 2006

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Guidance Note GNC-003

NSW DPI Guidance Note: Preparing a health and safety management system

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PURPOSE

The purpose of this guidance note is to provide assistance to operators of coal operations regarding the duty to prepare a health and safety management system for the coal operation.

SCOPE

This guidance note applies to coal operations in New South Wales which are governed by the *Coal Mining Health and Safety Act 2002*. This guidance note is to assist operators to prepare a health and safety management system that includes the contents as required by the coal mining health and safety legislation.

The *Occupational Health and Safety Act 2000* imposes duties on the operator of the coal operation in relation to their employees and other at the workplace. This includes the general duty of care in section 8 and the duty to consult employees in section 13. The *Coal Mining Health and Safety Act 2002* (the Act) imposes some extra duties on operators, including in relation to other people who work at the coal operation.

The *Occupational Health and Safety Act 2000* deals broadly with the health, safety and welfare of people at work at the coal operation. The *Coal Mine Health and Safety Act 2002* is to be read in conjunction with the *Occupational Health and Safety Act 2000*.

DUTIES

Operator to prepare health and safety management system

The operator of a coal operation must prepare a statement which explains how health and safety at the coal operation is protected. This statement outlines the operation's health and safety management system that protects the health and safety of the people that work at the coal operation, or who are directly affected by the coal operation even if the person is not inside the coal operation. This includes the way that an operator identifies hazards at the coal operation and assesses risks arising from those hazards. It also includes the development and implementation of risk controls.

Note: **mining**, as defined by the Act, includes (but is not limited to) underground and open cut mines, and coal preparation plants. It does not include exploration sites.

The obligation on the operator of a coal operation to prepare a health and safety management system is placed by section 20 of the Act, is as follows:

20 Duty of operator to prepare health and safety management system

- (1) The operator of a coal operation at which mining is carried out must prepare a statement in accordance with this Act and the regulations, stating how the health and safety of the people who work at the coal operation, or who are directly affected by the coal operation, will be protected. This is a **health and safety management system**.*
- (2) For the purposes of this section, a person may be directly affected by a coal operation even if the person is not inside the coal operation.*
- (3) The regulations may specify which people are directly affected by a coal operation for the purposes of this Subdivision.*

- (4) This section does not require an operator to prepare a health and safety management system for a coal operation if:
- (a) a previous operator of the coal operation prepared a system that complies with this Act and the regulations, and
 - (b) the system is adopted by the subsequent operator.

The statement, known as the **health and safety management system**, must cover all of the coal operation and is not limited to mining activities.

Contents of the health and safety management system

The Act (section 23) sets out the content for the health and management system. This content is represented by the first four columns in Chart 1 below.

Chart 1: Health and safety management system contents

Health and Safety Management System				
System elements Section 23(3)(a) of Act	Major hazard management plans Section 23(3)(b) of Act Note: Clause 28 - 38 of Reg	Management structure Section 23(3)(c), and Section 37-38 of Act	Contractor management plan Section 23(3)(d) and Section 40 of Act	Components required by the regulations Section 23(3)(e) of Act
Including: <ul style="list-style-type: none"> ▪ Health and safety policy ▪ Risk management ▪ Training and competence ▪ Information control ▪ System evaluation 	<ul style="list-style-type: none"> ▪ Slope stability ▪ Surface transport ▪ Underground transport ▪ Strata failure (U/G) ▪ Inrush (U/G) ▪ Fire and explosion (U/G) ▪ Dust explosion (U/G) ▪ Explosives ▪ Airborne dust ▪ Outburst of Coal and Gas (U/G) ▪ Spontaneous combustion (U/G) 	<ul style="list-style-type: none"> ▪ Nominates people within the structure by position and outlines their areas of responsibility and accountability ▪ Identifies, by means of an organisation chart, people responsible for major functions in the management structure of the operation ▪ Includes a register, kept at the on-site office of the coal operation, containing names of people occupying positions in the management structure 	<ul style="list-style-type: none"> ▪ Pre-assessment of contractor health and safety arrangements (including safety management, competence of people and fit for purpose plant) prior to engagement ▪ Site induction of contractors, contractor employees and subcontractors ▪ Monitoring of contractor compliance with site health and safety requirements, including compliance with the Act and Regulation 	<ul style="list-style-type: none"> ▪ Inspection program ▪ Information and communication arrangements ▪ Supervision arrangements ▪ Monitoring arrangements (U/G) ▪ Electrical engineering management plan ▪ Mechanical engineering management plan ▪ Withdrawal conditions ▪ Ventilation arrangements (U/G)

Other systems and arrangements

Note: The **emergency management system** is not part of the health and safety management system; rather, it is an additional system that is prepared and implemented that are not envisaged or controlled by the health and safety management system.

The contents of the health and safety management system are set out by section 23 of the Act, is as follows:

23 Contents of health and safety management system

- (1) *The purpose of a health and safety management system must be to provide the primary means by which an operator ensures the health, safety and welfare of employees and others at a coal operation and of people directly affected by a coal operation, including people who are not at the coal operation.*
- (2) *A health and safety management system for a coal operation must provide:*
 - (a) *the basis for the identification of hazards, and of the assessment of risks arising from those hazards, by the operator of the coal operation, and*
 - (b) *for the development of controls for those risks, and*
 - (c) *for the reliable implementation of those controls.*
- (3) *A health and safety management system must include:*
 - (a) *system elements (which must include, but are not limited to, health and safety policy, risk management, training and competence, information control and system evaluation), and*
 - (b) *any major hazard management plans required for the coal operation under Subdivision 2, and*
 - (c) *the management structure of the coal operation required under Subdivision 3, and*
 - (d) *any contractor management plan required for the coal operation under Subdivision 4, and*
 - (e) *any other matter prescribed by the regulations.*
- (4) *The regulations may require a health and safety management system to be consistent with any management system standard specified in the regulations.*
- (5) *The regulations may specify matters that do not need to be included in a health and safety management system.*

The Coal Mine Health and Safety Regulation 2006 specifies matters, or additional components, that must be included in the health and safety management system. These are shown in the last (right) column of Chart 1 above. Clause 13 of the Regulation is as follows:

13 Additional components of health and safety management system

- (1) *For the purposes of section 23 (3) (e) of the Act, the health and safety management system for a coal operation must include the following (the specific contents of which are set out in clauses 15–21):*
 - (a) ***an inspection program*** *that makes provision for the regular inspection of those parts of the coal operation that people may work in or travel through:*
 - (i) *to detect the presence of hazards to safety or health, and*
 - (ii) *to bring the presence of any such hazards to the attention of appropriate people so as to initiate their effective control,*
 - (b) ***information and communication arrangements*** *that assist in meeting the requirements of the regulations under the Occupational Health and Safety Act 2000 in relation to the provision of instruction, training and information to employees,*
Note. *As at the commencement of this clause, the relevant requirements were set out in clause 13 of the Occupational Health and Safety Regulation 2001.*

- (c) **supervision arrangements** that assist in meeting the requirements of the regulations under the Occupational Health and Safety Act 2000 in relation to the supervision of employees,

Note. As at the commencement of this clause, the relevant requirements were set out in clause 14 of the Occupational Health and Safety Regulation 2001.

- (d) in the case of an underground mine—**monitoring arrangements** that ensure that sufficient monitoring plant of appropriate types is installed, used and maintained to detect risks to the safety or health of people working underground at the mine,
- (e) **an electrical engineering management plan** covering the life cycle of electrical plant and installations, and electrical engineering practices, at the coal operation, that is developed, implemented and periodically reviewed through consultation with a qualified electrical engineer, to control risks as follows:
- (i) to prevent injury to people from sources of electrical energy,
 - (ii) to prevent uncontrolled fires where electrical energy is the ignition source,
 - (iii) to prevent initiation of gas or coal dust explosions by electrical energy,
 - (iv) to prevent unintended operation of plant,
 - (v) to provide electrical safeguards for electrical and non-electrical hazards, with a probability of failure appropriate to the degree of risk posed by the hazard,,
 - (vi) to provide the means by which the safety of electrical plant and electrical practices is or are managed, including requirements of the Act and this Regulation and any relevant requirements of the regulations made under the control Occupational Health and Safety Act 2000,
- (f) **a mechanical engineering management plan** covering the life cycle of mechanical plant and installations, and mechanical engineering practices, at the coal operation, that is developed, implemented and periodically reviewed through consultation with a qualified mechanical engineer, to control risks as follows:
- (i) to control risks to health and safety from mechanical plant and installations over their life cycle,
 - (ii) to prevent injury to people from sources of mechanical energy,
 - (iii) to provide safeguards to prevent the release of uncontrolled mechanical energy and to prevent unintended operation of mechanical plant,
 - (iv) to prevent catastrophic failure of mechanical plant or installations,
 - (v) to prevent uncontrolled fires being initiated or fuelled by mechanical plant or installations,
 - (vi) to prevent initiation of gas or coal dust explosions by mechanical energy,
 - (vii) to minimise exposure to toxic or harmful materials associated with mechanical plant and installations,
 - (viii) to provide safeguards for mechanical plant and installations, with a probability of failure appropriate to the degree of risk posed by any mechanical plant or installation,
 - (ix) to generally provide the means by which the safety of mechanical plant and installations is managed including requirements of the Act and this Regulation and relevant plant safety requirements under the Occupational Health and Safety Act 2000,
- (g) conditions (**withdrawal conditions**) under which people are to be withdrawn, and to remain withdrawn, from the coal operation or parts of the coal operation as a precautionary measure when conditions of risk or a threat to health or safety (not amounting to an emergency) warrant such action,
- (h) in the case of an underground mine—**ventilation arrangements**.

- (2) In this clause:

mechanical energy means all energy associated with plant and installations, excluding electrical energy.

The contents of these additional components of health and safety management systems are provided by clauses 15 to 21 of the Regulations. Further information regarding specific components may be available in guidance notes and guidelines at: www.dpi.nsw.gov.au/minerals/safety

As stated in section 20(4) of the Act, an operator does not need to prepare a statement of the health and safety management system if a previous operator has prepared a statement that complies with the Act.

Consultation

People who work at the coal operation (including contractors) must be consulted when the health and safety management system is being prepared.

Section 24 of the Act is:

24 Consultation

The people who work at the coal operation must be consulted, in the manner required by the regulations, during the preparation of the health and safety management system and before its amendment.

Health and safety management system consistent with Australian Standard

The Regulation specify that the health and safety management system must provide an equivalent level of safety to that provided by a system that is consistent with AS/NZS 4804:2001 *Occupational health and safety management systems—General guidelines on principles, systems and supporting techniques*. Clause 14 of the Regulation is as follows:

14 Health and safety management systems must be consistent with Australian Standard

- (1) *For the purposes of section 23 (4) of the Act, a health and safety management system must be consistent with Australian/New Zealand Standard AS/NZS 4804:2001 Occupational health and safety management systems—General guidelines on principles, systems and supporting techniques.*
- (2) *Despite subclause (1), a health and safety management system is not required to be consistent with that Standard to the extent that the system applies to emergencies.*

No mining without health and safety management system

A health and safety management system must be implemented before mining activities commence. The operator of a coal operation must ensure that mining is not carried out by any person (including a contractor) at the operation unless a health and safety management system is implemented for the coal operation. This restriction only applies if the activities are for the purpose of improving coal or obtaining coal for a profit.

The operator must ensure that mining is carried out in compliance with the health and management system. This includes activities undertaken by contractors who undertake work at the operation.

The obligation on the operator of a coal operation to ensure that a health and safety management system is implemented and that all work is carried out in compliance with that health and safety management system is placed by sections 21 and 22 of the Act, is as follows:

21 No mining without health and safety management system

The operator of a coal operation must ensure that mining is not carried out by any person at the coal operation unless a health and safety management system that complies with this Act and the regulations is implemented for the coal operation.

Note. Because of the definition of **mine** (as a verb), this Subdivision applies to coal mines and preparation plants but not coal exploration sites.

22 Duty of operator to ensure compliance with health and safety management system

The operator of a coal operation must ensure that mining at the coal operation is carried out in compliance with the health and safety management system for the coal operation. This includes activities undertaken by contractors who undertake work at the coal operation.

Implementing a health and safety management system

The health and safety management system cannot be implemented until the operator of the coal operation has given the Chief Inspector the opportunity to make objections and require revisions.

Information about the health and safety management system must be provided to the Chief Inspector and the industry check inspector before implementation of the system. Information about any amendments must also be provided.

The duty to supply information to the Chief Inspector and industry check inspector by section 25 of the Act is:

25 Information to be supplied to Chief Inspector and industry check inspector

(1) Information relating to the health and safety management system for a coal operation must be supplied by the operator of the coal operation to the Chief Inspector and an industry check inspector.

(2) The regulations may specify:

(a) the form and content of information to be supplied, which may include, but is not limited to, the elements of the health and safety management system to be supplied, and

(b) whether any summary of the health and safety management system is to be supplied and, if so, what summary.

For the purposes of section 25(2) of the Act, clause 22 of the Regulation specifies information relating to the health and safety management system that must be supplied by the operator to the Chief Inspector and industry check inspector.

Note: the Chief Inspector may require further information to assess the health and safety management system to ensure it adequately addresses the requirements of the Act and Regulations.

An operator must wait **21 days** after providing this information to the Chief Inspector before implementing the health and safety management system.

During the waiting period the Chief Inspector (or delegate) can issue a written notice stating that they object to the system and that the system must not be implemented until the objection has been resolved. The considerations that the Chief Inspector may view regarding objection of the system by section 26(1) of the Act is as follows:

26 Chief Inspector may object

- (1) The Chief Inspector may object to a health and safety management system if he or she forms the view:
 - (a) that the health and safety management system does not comply with the requirements of this Act or the regulations, or*
 - (b) that there was insufficient or inadequate consultation in the preparation of the health and safety management system, or*
 - (c) that the health and safety management system is insufficient to protect the health and safety of those who work at the coal operation or those affected by the coal operation.**
- (2) If the Chief Inspector has an objection to a health and safety management system for a coal operation, the Chief Inspector must notify the operator of the coal operation in writing of the objection. The health and safety management system must not be implemented until the objection has been resolved.*
- (3) If the Chief Inspector notifies an operator of an objection, the operator must revise the health and safety management system, taking into account any matters raised in the objection, and submit it to the Chief Inspector within the time prescribed by the regulations.*
- (4) If the Chief Inspector has not notified the operator of an objection within 21 days after receiving information concerning the system, or within any other period prescribed by the regulations, the operator may implement a health and safety management system. The system may not be implemented before that period ends.*

If the Chief Inspector notifies an operator of an objection, the operator must revise the health and safety management system, taking into account any matters raised in the objection, and submit it to the Chief Inspector within 3 months (as prescribed in clause 23 of the Regulation).

An industry check inspector cannot require change to the health and safety management system. However they can raise objections with the Chief Inspector or directly raise matters concerning the content of the system with the operator of the coal operation. The provision allowing industry check inspectors to raise objections to the health and safety management system by section 27 of the Act is as follows:

27 Industry check inspector may object

- (1) An industry check inspector may raise objections with the Chief Inspector regarding the content of a health and safety management system.*
- (2) The Chief Inspector must have regard to any objection raised under this section.*
- (3) Nothing in this section prevents an industry check inspector from raising matters concerning the content of a health and safety management system for a coal operation directly with the operator of the coal operation.*

If the health and safety management system is amended after it is in operation, the operator of the coal operation must send information concerning the amended system to the Chief Inspector and an industry check inspector before the proposed commencement of the amendments (section 29(1) of Act). The amendments to the health and safety management system may be implemented immediately after informing the Chief Inspector of the amendments, unless the amendments are of the kind specified by clause 26 of the Regulation as follows:

26 Amendments to health and safety management system that may not be implemented immediately

For the purposes of section 29 (5) of the Act, amendments of the following kinds cannot be implemented during the period of 28 days after informing the Chief Inspector of the amendment:

- (a) the addition or removal of a major hazard management plan in response to the addition or removal of a major hazard as being one to which Subdivision 2 of Division 2 of Part 5 of the Act applies,*
- (b) a change of the codes, standards or guidelines utilised in a major hazard management plan, but not a change to the content of codes, standards or guidelines,*
- (c) changes in the responsibility for major functions covered by the management structure.*

The Chief Inspector (or delegate) can issue a written notice stating that they object to the amendments to the system. If the Chief Inspector objects to the amendments, the amendments **must not** be implemented (section 29(4) of the Act), they must either be withdrawn or revised taking into account any matters raised in the objection.

If the operator withdraws or revises the amendments, the withdrawal or revision must be submitted to the Chief Inspector within **28 days** (as prescribed by clause 25 of the Regulation) of the date of objection.

Health and safety management system must be reviewed

The health and management system must be review by the operator of the coal operation twelve months after mining activities commence and than at least once every three years. The review must be completed within six months.

Relevant parts of the statement must be reviewed immediately if any of the following events occur:

- a person is killed at the coal operation or killed in an incident arising directly from the operation; or
- there is a dangerous incident at the coal operation that could have resulted in a person being killed; or
- operations are changed significantly in a way that may affect health and safety.

The Chief Inspector can direct an operator to review the health and safety management system at any time.

The duty to review the health and safety management systems by section 28 of the Act is as follows:

28 Health and safety management system must be reviewed

- (1) The operator of a coal operation at which mining is carried out must regularly review the health and safety management system for the coal operation, including any major hazard management plans, the management structure and any contractor management plan. That review must occur at least once every 3 years.*
- (2) In addition to that regular review, an operator must immediately review the health and safety management system:*
 - (a) as at 12 months after the commencement of mining at the coal operation, or*
 - (b) if there is a fatality at or arising directly from the coal operation, or*
 - (c) if there is a dangerous incident at the coal operation that could reasonably have been expected to result in a fatality, or*
 - (d) if there is a significant change in operations that may affect health and safety, or*
 - (e) if required to do so by the Chief Inspector in writing, or*
 - (f) if required to do so by the regulations.*
- (3) A review under subsection (2) is required to consider only the relevant parts of the health and safety management system.*
- (4) The people who work at the coal operation must be consulted, in the manner prescribed by the regulations, as part of the review.*
- (5) A review must be completed within 6 months after it is required by this section.*

Access to health and safety management system

A health and safety management system for a coal operation states how the health and safety of people who work at the coal operation or who are directly affected by the coal operation are to be protected. The operator of the coal operation must ensure an up-to-date copy of the health and safety management system for the coal operation is kept at the on-site office.

This copy must be made available for inspection by:

- a government official; or
- a check inspector; or
- any person (including contractors) who works at the coal operation.

The Chief Inspector must be supplied immediately with an up-to-date copy of the health and safety management system if the Chief Inspector requests a copy.

The duty to keep an up-to-date copy of the health and safety management system at the on-site office of the coal operation by section 30 of the Act is as follows:

30 Access to health and safety management system

- (1) An up-to-date copy of the health and safety management system for a coal operation must be kept at the on-site office of the coal operation by the operator of the coal operation and must be made available for inspection by:*
 - (a) a government official, or*
 - (b) a check inspector who is entitled to exercise functions in relation to the coal operation, or*
 - (c) any person who works at the coal operation.*
- (2) The operator of a coal operation must immediately supply the Chief Inspector with an up-to-date copy of the health and safety management system for the coal operation if the Chief Inspector requests a copy.*

REFERENCES

Coal Mine Health and Safety Act 2002
Coal Mine Health and Safety Regulation 2006

Occupational Health and Safety Act 2000
Occupational Health and Safety Regulations 2001

Australian/New Zealand Standard AS/NZS 4804:2001 *Occupational health and safety management systems-General guidelines on principles, systems and supporting technique*

FURTHER READING

DPI Publication: New health and safety laws for coal. Guide to Coal Mine Health and Safety Act 2002 (available from the Departments internet at:
<http://www.dpi.nsw.gov.au/minerals/safety/legislation>)

AS/NZS ISO 9001:2000 Quality management systems-Requirements

Australia/New Zealand Standard AS 4801:2001 *Occupational health and safety management systems-Specification with guidance for use.*

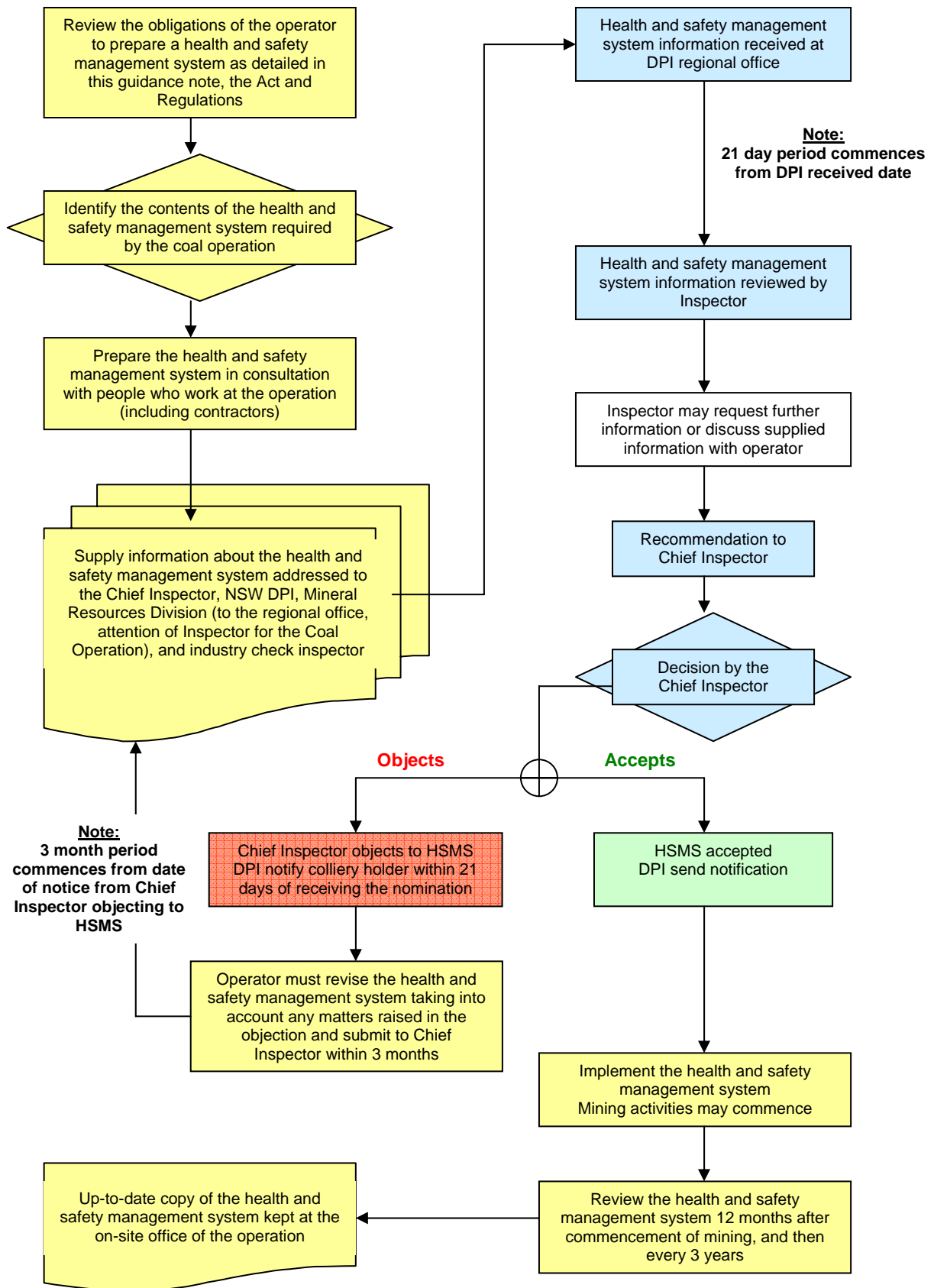
Note: This standard establishes an audit framework principally for use by third party bodies that have been asked by an organisation to conduct independent audit of the organisations HSMS. The framework can also be used as a reference point for internal auditing procedures.

ATTACHMENTS

Guidance Note Coal – 003: Preparing a health and safety management systems

GNC- 003 Attachment 1	Flowchart for preparing a health and safety management system
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Attachment 1: Flowchart for preparing a health and safety management system





FEEDBACK SHEET

Your comments will be very helpful in reviewing and improving this guidance note.
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