



HIA Submission

Review of health and air monitoring requirements for hazardous chemicals

Safe Work Australia

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Executive summary

The Housing Industry Association (HIA) takes this opportunity to respond to Safe Work Australia (SWA) Consultation Paper: *Review of health and air monitoring requirements for hazardous chemicals* of the model Work Health and Safety (WHS) laws.

The air and health monitoring requirements under the WHS laws pose considerable challenges for the residential building industry. They are plagued by ambiguity, complexity and create compliance burdens for businesses that appear to be in excess of the actual benefits to the health and safety of workers. To this end, we welcome a review of the existing settings and are committed to working with SWA and governments to implement meaningful and practical WHS reforms that ease industry pressures.

Before any amendments are progressed, genuine consultation and a regulatory impact assessment process must be undertaken, including a focus on the impacts on productivity and housing affordability, industry specific operation conditions, and the effects on small businesses. Guidance and education must be utilised as an alternative to regulation, but where regulation is justified it must be considered as a part of implementation and to ensure ongoing and practical compliance. We would be pleased to assist SWA and government in the delivery of education and information across industry.

Summary of key positions

- The term 'significant risk' must be retained and should be determined using a risk assessment. Further clarification, including industry-specific examples, should be provided in the Code of Practice or guidance material.
- The threshold for health monitoring must be where there is a 'significant risk to a worker's health because of exposure to a hazardous chemical' and not simply to exposure. Again, this should be supported with guidance material.
- Guidance on a 'valid technique' being a method that is scientifically or medically validated, is supported without regulatory amendment.
- Similarly, we support the improvement of guidance on 'ongoing work' and biological exposure standards as a more practical and useful approach than regulation.
- Schedule 14 must be removed in favour of a new list that links chemicals with required health monitoring, on the proviso that the health monitoring techniques are widely accessible and cost effective for PCBUs.
- We oppose changes to health monitoring report requirements, including the responsible party and the lower threshold. The current setting should be maintained.
- We also oppose the requirement to provide air monitoring reports to medical practitioners and instead favour the improvement of guidance for industry.
- Guidance is supported in preference to additional regulation for the revision of control measures following health monitoring, which undermines the principles-based approach to managing risk.



- Codes of Practice, guidance and practical tools, such as the British Columbia Tool and Queensland Controls Table, must be utilised in preference to widespread reliance on air monitoring.
- We support Option 11.1 to better link air monitoring requirements with specific regulations for hazardous chemicals.
- Responsibilities and record keeping for health monitoring must be clarified and simplified for the building and construction industry, where multi-tiered contracting arrangements create unnecessary duplication.

Housing affordability and productivity

No review of proposed regulatory intervention can be undertaken without considering the impact it will have on housing affordability, productivity and the ability to get homes built.

The residential building industry is already one of the most heavily regulated industries in Australia. Those in the industry must manage a complex web of national, state, and local laws, regulations and codes ranging from planning, design, environment, health and safety to local authority inspection and certification and a multitude of building, electrical, mechanical, and plumbing processes. Industry participants must also comply with a legislative framework that spans a multitude of issues including licensing, owner-builders, dispute resolution, builders warranty obligations and contractual requirements.

The industry is plagued by red, green and white tape that cumulatively, has a significant impact on our industry's ability to deliver homes faster and at an affordable price. For small businesses the impact is compounded. The unrelenting increase in compliance requirements and rate of regulatory change is effectively a slow death by a thousand cuts for industry.

The Productivity Commission's Interim report on Creating a more dynamic and resilient economy backs HIA's calls for a pivot in government's current approach to regulation and the rate of regulatory change that currently "*puts a significant brake on productivity growth.*"¹ This sentiment was also evident at the Economic Reform Roundtable² housing was a feature, with unanimous support on the need to reduce the excessive regulatory burden that is crippling businesses operating in our industry.

Practicality, improved productivity and housing affordability must be front of mind when considering any amendments to the model WHS laws. Indeed, the Australian people can no longer afford the ever-growing cost of regulation. The March 2025 Centre for International Economics Report on Taxation of the housing sector identifies the substantial portion of the cost of a home attributable to taxation, which in several states amounts to almost 50%. In effect, this means homeowners end up with bricks and mortar (resources) worth just 50% of the total price they paid. Any further changes to the regulatory landscape, including WHS requirements, will inevitably further skew these percentages.

Despite federal and state government agendas now shifting to reduce red tape, boost productivity, and to meet housing targets, the situation continues to worsen. Construction continues to be subject to ever increasing, restrictive and unjustified WHS regulation masquerading as 'necessary' to improve workplace health and safety. Instead, we support modifications to simplify complex WHS requirements, with the view to achieving practical outcomes that can be easily implemented by duty holders to achieve genuine

¹ Productivity Commission 2025, [Creating a more dynamic and resilient economy](#), Inquiry report, Canberra, July, p1.

² [Economic Reform Roundtable](#), Treasury, Australian Government, 19 – 21 August 2025.



improvements in workplace safety. We favour regulator guidance and education to support compliance by PCBU's rather than additional regulation driven by ideological and political agendas.

Guidance before regulation

In this context HIA's responses to the options presented in the Consultation Paper lean toward a preference for addressing the issue via guidance. Unlike regulation, guidance material can be much more practical, specific, and can focus on specific industries. Guidance can provide much more clarity by including case studies, specific examples, checklists and more. An additional major advantage is that guidance can be readily updated and implemented as the need arises.

However, it is of concern that proposed regulatory amendments dominate the options presented in the Consultation Paper. In some instances, the option of retaining current arrangements or addressing issues using guidance are not presented as options, even though addressing the issue via guidance is clearly feasible and arguably more appropriate than the options presented in the Consultation Paper. This undermines the integrity and appropriateness of the Consultation Paper, which as a result, doesn't appear to be an honest approach to genuine consultation where all viable options are explored.

Data as the basis for reform

Any amendments to primary and subsidiary legislation, as well as Code of Practice, should be driven by data and supported by objective and repeatable evidence. With respect to regulatory amendments, robust consultation and a regulatory impact statement, which includes a comprehensive and supporting cost-benefit analysis, must precede any proposed changes.

This process ensures ideological changes and political agendas without a genuine need or real safety benefit may be progressed, to the detriment of affordable, readily available and secure housing for Australians.

Health monitoring

Health monitoring threshold – Definition of 'significant risk'

HIA supports Option 1.1 in part, including:

- retaining the use of the term 'significant risk'; and
- determination of 'significant risk' based on a risk assessment.

However, we see no merit or justification for the addition of a definition for 'significant risk' within the WHS Regulations. If Option 1.1 is adopted in full, despite our objections, any definition of 'significant risk' needs to be qualified by exposure being likely to be ongoing and consistently above the WES or WEL.

We also note that the Consultation Paper proposes that defining the term in the regulations could draw on existing information outlined in the health monitoring guides and include matters that must be considered when determining when the threshold is met.

Improved guidance is necessary

A more effective and appropriate approach would be to develop improved guidance concerning the matters that PCBU's would need to consider in assessing 'significant risk', including practical worked examples.



This approach should have been included as an additional option in the Consultation Paper, as it is clearly feasible and achievable to improve guidance on determining risk for health monitoring purposes rather than additional regulation.

Such guidance could be included in either the model Code of Practice: *Managing the risk of hazardous chemicals in the workplace* or other health monitoring guides.

Option 1.2 – replacing ‘significant risk’ with ‘risk’ in the relevant regulation(s)

HIA does not support Option 1.2 - replacing ‘significant risk’ with ‘risk’.

Determining a health monitoring obligation solely on ‘risk’ is not sensible as it means health monitoring being required no matter what the risk is, even if risk is remote and health effects are highly unlikely to occur. Not only would this approach fail to support the policy intent of providing clarity, but it would have a range of unjustifiable negative impacts, including, but not limited to:

- additional costs to businesses for monitoring;
- additional downtime and loss of productivity;
- additional, prolonged record keeping requirements, and associated increased security risks and requirements;
- additional exposure to radiation and other associated health risks for workers; and
- additional retention and the potential for exposure of workers private information.

Health monitoring threshold – Risk of ‘exposure’ versus risk of ‘health’

HIA supports Option 2.1 to align the threshold for health monitoring requirements across the relevant regulations, to where there is a ‘significant risk to worker’s health because of exposure to a hazardous chemical’.

Additionally, we would support further guidance and clarification to assist duty holders to determine and manage their obligations, per Option 2.2

‘Risk of exposure’

For the avoidance of doubt, HIA does not support the threshold for health monitoring being based on ‘risk of exposure’. It is not sensible or justifiable to link ‘risk of exposure’ to health risk given that well controlled ‘exposures’ in accordance with the requirements of the model WHS Regulations would not pose a risk to health.

Furthermore, the term ‘risk of exposure’ is not defined in the WHS Regulations and has different meanings for different people, which is likely to lead to further confusion. For example, in this context some consider ‘risk of exposure’ to an airborne hazardous chemical to mean that a worker working in an area that has airborne levels of the chemical that are below the WES/WEL is at ‘risk of exposure.’ Whereas some believe it to mean that the worker needs to be able to inhale the chemical at levels above the WES/WEL to be at risk. Still others believe a worker is at ‘risk of exposure’ even if control measures protect the worker against inhalation because of the possibility that the control measures might fail. This level of uncertainty must be avoided and undermines regulatory integrity.

If utilised, HIA recommends that the term ‘risk of exposure’ should be clarified by guidance based on SWA’s model incident notification guidance relating to exposure to a substance which states that:



“the term exposure’ generally means coming into contact with a substance by breathing it in, swallowing it, or getting it on the skin or eyes”³

Health monitoring threshold – ‘Valid techniques’

HIA supports Option 3.2 to improve guidance on the term ‘valid technique’.

Given the range of issues and matters to be considered as detailed in the Consultation Paper it would be more appropriate to define this term using guidance in the Code of Practice: *Managing the risk of hazardous chemicals in the workplace* or other guidance.

We agree in part with the proposal in the Consultation Paper that consideration could be given to specifying that a ‘valid technique’ is a method that is scientifically or medically validated, relevant to the hazardous chemical and recognised by regulatory bodies or industry standards and/or one recommended by a registered medical practitioner with experience in health monitoring.

In addition, HIA considers that any acceptable definition of this term must include that both sampling and analytical requirements must be broadly and readily available and accessible to PCBU, have practical measurability, and be able to provide dependable results at a reasonable cost to PCBU.

Health monitoring threshold – ‘Ongoing work’

HIA supports Option 4.2 to improve guidance on the term ‘ongoing work’.

Improving guidance could achieve a better outcome than defining the term in regulations. Unlike regulation, such guidance could be more readily implemented to address the issue and to provide more clarity using case studies, worked examples and focusing on specific industries. This option would have a positive effect at protecting workers from exposure to harmful levels of hazardous chemicals.

Biological exposure standards

HIA supports Option 5.2, to improve guidance on biological exposure standards.

We oppose Option 5.1 on the basis that the Consultation Paper provides insufficient information on how the term ‘biological exposure standard’ would be defined.

Proposed criteria to update Schedule 14 (or an alternative list)

Health monitoring techniques must be broadly and readily accessible at a reasonable cost to PCBU and this must be added to the criteria at item 5 of Appendix C. Subject to this amendment, HIA would support Option 6.3 – removing Schedule 14 and establishing a separate list of chemicals and the type of health monitoring required, using the proposed criteria.

However, prior to implementing the new list, any additions must be subject to a regulatory impact assessment, including a positive cost-benefit analysis.

³ Safe Work Australia, [Notifiable incidents, extended absences and suicides Handbook 2025](#), p28.



Health monitoring reports

We oppose the amendment of the regulations proposed under both Options 7.1 and 7.2, requiring the registered medical practitioner to submit reports to the regulator. Additionally, we strongly oppose the lowering of the reporting threshold as proposed in Options 7.2 and 7.3, for which there appears to be no justification.

HIA supports retaining current provisions, and we note it is disappointing that retaining current provisions has not been included as an option in the Consultation Paper.

If, as alleged, some WHS regulators have reported receiving relatively low numbers of health monitoring reports from PCBU, this could be due to factors other than the lack of compliance assumed in the Consultation Paper. For example, many health monitoring results will not be reportable if there is no indication that the worker may have contracted a disease, injury or illness, or no recommendation that the PCBU take remedial action.

If it is largely due to non-compliance, which HIA disputes, this would be an enforcement issue that must be addressed by the regulators rather than by additional regulation. This must be coupled with a campaign to provide further guidance and education to facilitate increased awareness and compliance, as a first step before regulatory amendment is considered.

Information to be provided to the registered medical practitioner

HIA supports Option 8.2 to improve guidance on relevant information to be provided to the registered medical practitioner.

Obtaining air monitoring reports for all on-site work in the residential building industry is unrealistic and complicated by a range of circumstances that can influence exposures and testing results (which may not ultimately be aligned), combined with a lack of resourcing, equipment and significant cost. These issues are covered in further detail with respect to Option 10.2.

Introducing a regulation requiring the provision of air monitoring reports to medical practitioners only further complicates the existing settings. It has the potential to exacerbate avenues for misunderstanding, delays and non-compliance between the various parties, without achieving a genuine improvement to safety on site, and has no objective impact on the actual conditions of a workers' health.

Linking relevant regulations

HIA supports Option 9.2 to improve guidance to clearly explain how health monitoring results should be used to inform risk management. This will provide for the necessary flexibility within the requirements, allowing the PCBU to manage risks to health and safety so far as reasonably practicable, and to avoid undermining the principles based approach inherent to the WHS laws.

Air monitoring

Clarifying the requirements for air monitoring

HIA supports Option 10.2 to clarify requirements for regulations 49 and 50 in the model Code of Practice: *Managing the risk of hazardous chemicals in the workplace*.



Given the range of issues identified in the Consultation Paper, HIA considers that Option 10.2 is more suitable as it can provide appropriate detail to clarify matters and include sample scenarios or case studies and tools to aid understanding of the requirements, which a regulation will not provide.

At least for some chemicals, such as crystalline silica in construction, the cost of air monitoring is a significant issue that can and must be addressed via guidance.

The cost of air monitoring for RCS is a huge barrier to most small construction businesses that carry out several tasks involving RCS. This is due to the fact that crystalline silica is a component in a broad range of building materials and products, including sand, rock, soil, concrete and concrete products, clay and concrete roof tiles, bricks, ceramic tiles, grout, pavers, fibre cement products, and many other building products.

The cost of air monitoring for RCS is prohibitive for most small construction businesses. For example, a cost of \$10,000 was identified by SWA in the Decision Regulation Impact Statement (DRIS) on which the September 2024 WHS Regulations for CSS processes were based. The DRIS quoted evidence of the cost of air monitoring, being \$10,000 to \$20,000 per experience⁴ - a cost that is not feasible for small construction businesses.

It is essential that guidance needs to be supplemented with a genuine effort to assist PCBU's by making air monitoring unnecessary where pragmatic solutions or levels of exposure for specific tasks are known.

One practical tool that exists that could readily be implemented is the existing Queensland *Managing respirable crystalline silica dust exposure in construction and manufacturing of construction elements Code of Practice 2022*. This code gives PCBU's clear direction in deciding when air monitoring needs to be carried out and is linked to the implementation of effective safe work practices for controlling risks of exposure to RCS for various types of CSS processing, including engineering control measures and suitably rated respiratory protection equipment.

Another tool is the 'Silica Control Tool' developed by the Canadian, British Columbia Construction Safety Alliance. This is a simple, easy-to-use, research-backed tool that provides a practical method of assessing the risk of exposure to RCS when processing CSS based on known levels of airborne RCS. The data underpinning the Silica Control Tool is robust, utilising research and North American RCS exposure data for various construction tasks and scenarios involving processing of CSS.

The 'Silica Control Tool' enables a person to enter specific details of the work they intend to carry out, such as the material, process, duration, and other relevant factors. It then predicts the amount of RCS that can be released and anticipates whether the WES/WEL is likely to be exceeded. The tool will also recommend appropriate control measures and establish an exposure control plan to ensure RCS exposure is kept to levels below the WES/WEL.

WorkSafe Victoria recently had the 'Silica Control Tool' evaluated by Adelaide University for its suitability and adaptability to Australia and is liaising with WorkSafe's counterparts in NSW and Queensland to potentially make the tool available collectively. We understand there is broad support for the adoption of this tool in other jurisdictions also.

With the necessary adaptations for WHS requirements, this tool would be highly beneficial to workers involved with processing CSS as it will require PCBU's to apply effective high level control measures to

⁴ Safe Work Australia February 2023, [Decision Regulation Impact Statement - Managing the risks of respirable crystalline silica at work](#), pg. 28.



minimise exposure to RCS without the need for time consuming and expensive air monitoring. This is the sort of pragmatic approach to air monitoring that industry needs rather than regulation.

In addition, and certainly in the absence of an 'approved' silica control tool, we consider it appropriate for PCBU's to be able to refer to and rely on what they consider to be relevant third-party data in conducting their risk assessments. This could include under a Code or guidance:

- similar-exposure groups based on comparable tasks and conditions;
- representative personal breathing-zone sampling;
- task-based, full-shift, short-term or peak monitoring selected for the relevant exposure pattern;
- what the PCBU reasonably considers to be reliable historical and comparable third-party data;
- statistical analysis and uncertainty;
- static or real-time monitoring as supporting evidence; and
- a review of additional sampling following material changes, abnormal results, or control failure.

This third-party data that is currently available, is also likely to inform future silica control tools such as the one developed by the Canadian, British Columbia Construction Safety Alliance.

Disconnect with other requirements that apply to hazardous chemicals

HIA supports Option 11.1 to integrate air monitoring requirements with the specific regulations for hazardous chemicals in Part 7.1 of the model WHS Regulations.

Additional issues and options

Responsibility for health monitoring and record keeping

Currently there are significant challenges faced by the building and construction industry in meeting the requirements for health monitoring, which become exceptionally difficult to manage in a multi-tiered contracting structure. The cascading duties throughout contracting chains that are shared by multiple PCBUs create a considerable amount of unnecessary duplication, lead to privacy and security issues due to the personal nature of the information collected and ultimately contribute to the erosion of housing affordability and productivity. This is further complicated by, for example:

- the project-based nature of the work and relatively short durations of engagement;
- where a PCBU or worker may be engaged in more than one contracting chain at a time;
- where a contractor refuses to carry out or share health monitoring information about its workers with upstream PCBUs; and
- the level of control upstream PCBUs have over downstream workers; and
- the disproportionate impacts for regional PCBUs and their workers.

In practical terms, a single worker may be required to have 30 to 40 years' worth of personal health monitoring information stored with every business they work for, on every different jobsite, for every upstream PCBU. That is a considerable level of personal exposure. It may even result in the worker being subject to monitoring in excess of the statutory requirements for the purpose of each PCBU satisfying its duties, unnecessarily creating additional exposure for the worker to further hazards, such as additional radiation.



For a building or head contractor business, the requirement to carry out health monitoring and manage up to 40 years' worth of data for potentially hundreds of thousands of workers, whose information is also being stored by hundreds of other PCBU's, is unnecessary and avoidable at best, and at worst is highly disruptive, inefficient and cost prohibitive.

It should be clarified within the relevant Code of Practice or other guidance how duty holders can practically meet the monitoring and retention requirements. For example, only the direct employer, as the party with the greatest level of control, should be responsible for determining the requirement for health monitoring of its employees, organising and carrying the cost of monitoring, and retaining the information. If a worker is a sole trader or working director, they should similarly be responsible for their own health monitoring.