

## SUPPLEMENTARY QUESTIONS

### QUESTION 1

*Can you please explain what the current requirements are for manufacturers to provide safety data sheets with their manufactured stone products? The committee received evidence that safety data sheets are only supplied to fabricators on request – is this correct? What is the source of authority for these requirements (eg. are they mandated by the model WHS regulations?).*

### ANSWER

Manufacturers and importers of products containing silica (a hazardous chemical) need to determine if workers can be exposed to the respirable fraction of airborne dust when working with these products e.g. when cutting. Where exposure to silica can occur, products must be labelled and safety data sheets (SDS) provided (see clauses 329, 330 and 335 of the *Work Health and Safety Regulation 2017* (WHS Regulation)).

Suppliers of a hazardous chemical to a workplace must provide current SDS.

A person conducting a business or undertaking (PCBU) must also obtain a copy of the SDS and make it readily accessible to workers involved in using, handling or storing the hazardous chemical at the workplace (cl 344).

Where Inspectors have observed that SDS were not on site, improvement notices were issued for the PCBU to obtain the SDS. Suppliers have provided SDS when requested by the fabricators.

### QUESTION 2

*Is work underway at the state level to develop a code of practice for managing silica exposure in the stone industry?*

### ANSWER

The NSW Manufactured Stone Industry Taskforce recommended that National Code of Practice be developed for working with manufactured stone (recommendation g, page 8, July 2019), which was progressed and advocated by SafeWork NSW to Safe Work Australia.

At the time, it was elected to develop national guidance material on working with silica and silica-containing products, which was released in September 2019. That guidance is currently available on the Safe Work Australia website.

NSW continued to advocate through Safe Work Australia channels for the development of a National Code of Practice for national consistency.

In November 2019, the Safe Work Australia members agreed that a National Code of Practice would be developed for manufactured stone with the first draft anticipated in the coming months.

SafeWork NSW will actively participate in the development of this document.

### QUESTION 3

*In relation to silica exposure, is air monitoring required under current NSW WHS legislation? And under what circumstances?*

### ANSWER

PCBU's must ensure that no person at the workplace is exposed to a substance above its exposure standard and must reduce exposures so far as is reasonably practicable.

PCBU's must undertake exposure (air) monitoring for substances with an exposure standard if they are not certain as to whether or not the exposure standard is exceeded, or to determine if there is a risk to health.

Adjustments to the exposure standards are made for extended work shifts, taking into account the longer daily (cumulative) exposure. For example, a 12-hour shift would require the exposure standard to be almost halved again.

Air monitoring results must be readily available to workers and records of results kept for 30 years (cl 50 WHS Regulation).

A PCBU must review any control measures implemented, if a workplace exposure standard for a substance has been exceeded.

#### **QUESTION 4**

*At the last hearing, the Australian Engineered Stone Advisory Group (AESAG) discussed their industry accreditation program and, as part of this, their intention to report any breaches of WHS regulations that they become aware of. What legal obligations exist for third parties outside of a workplace to advise the regulator that a breach exists?*

#### **ANSWER**

Any person can voluntarily and/or anonymously report breaches of the WHS regulations by writing to SafeWork NSW or by contacting our Customer Service Centre on 13 10 50 or via [contact@safework.nsw.gov.au](mailto:contact@safework.nsw.gov.au).

SafeWork NSW has also launched an app "*SpeakUp*" to facilitate any person to voluntarily and/or anonymously report breaches of the WHS Regulation.

#### **QUESTION 5**

*On what basis is a health screening required? What is the source of authority? In what circumstances does this arise?*

#### **ANSWER**

PCBU's are required to provide health monitoring to workers if there is a significant risk to the worker's health because of exposure to silica (cl 368 WHS Regulation). This includes workers relying on personal protective equipment (PPE) such as respirators for controlling their exposure below the exposure standard.

Silica is listed in Schedule 14 of the WHS Regulation, which outlines the health monitoring requirements.

In relation to health monitoring, PCBU duties include:

- informing workers of the requirements for health monitoring
- using a registered medical practitioner with experience in health monitoring
- providing details to the medical practitioner
- obtaining a copy of the health monitoring report
- providing a copy of the health monitoring report to SafeWork NSW if the worker has developed a disease or injury and/or the report contains any recommendations on remedial measures at the workplace.

Safe Work Australia has recently published the revised *Health Monitoring – Guide for Crystalline Silica*, visit [www.safeworkaustralia.gov.au](http://www.safeworkaustralia.gov.au).

Information about health monitoring for other hazardous chemicals can also be found on the Safe Work Australia website.

## **QUESTION 6**

*What are the details of the arrangements in relation to referrals for health screening with iCare?*

### **ANSWER**

PCBUs are required to conduct health monitoring where there is a significant risk to a worker's health due to exposure to silica (cl 368 WHS Regulation). SafeWork NSW inspectors issue Improvement Notices to PCBUs to have health monitoring undertaken for workers. As part of SafeWork NSW's five-year strategy, icare is offering free health monitoring through its Pitt St Clinic and Mobile Lung Bus on the first occasion for PCBUs to comply with their notice where they have less than 30 workers and at a 50% discounted fee where the PCBU has more than 30 workers. Screening thereafter is subsidised at a cost recovery amount of \$100 plus GST per worker, paid by the PCBU. PCBUs/workers can also be screened through their own medical practitioners.

## **QUESTION 7**

*What mechanisms are in place to confirm that employees from inspected sites are referred and have attended for health screenings following a referral?*

### **ANSWER**

Where improvement notices have been issued to PCBUs for health monitoring, inspectors use a combination of the following to confirm compliance including:

- verifying with PCBUs that appointments for workers have been made with icare or their own medical practitioners and that workers have attended those appointments
- reviewing health monitoring reports given to the PCBU for all workers. PCBUs are also required to submit any adverse health monitoring reports to SafeWork NSW (cl 376 WHS Regulation)
- issuing section 155 notices to icare to confirm the date workers have attended their appointment.

## **QUESTION 8**

*What data is shared on this process between SafeWork and iCare?*

### **ANSWER**

Following a recommendation of the Legislative Council Standing Committee on Law and Justice's 2014 Review of the exercise of the functions of the WorkCover Authority, WorkCover was replaced by three new entities to clearly separate the roles of WHS regulator and nominal insurer in the workers compensation scheme – SafeWork NSW, the State Insurance Regulatory Authority (SIRA) and Insurance and Care NSW (icare).

As such, the information sharing processes are the same as with any other (separate) NSW government entity, and the respective requirements in each entity's legislation.

For SafeWork NSW to obtain icare health monitoring screening or claims information, a Section 155 notice under the *Work Health and Safety Act 2011* is required to be served, noting the information contains personal health records and the privacy requirements that must be maintained.

SafeWork NSW currently issues a notice to icare on a six-monthly basis to obtain this information.