



**Safe Work Australia Submission into Queensland Parliament's
Inquiry into Occupational Respirable Dust Diseases
Response to the extended terms of reference**

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About Safe Work Australia

1. Safe Work Australia leads the development of national policy to improve work health and safety (WHS) and workers' compensation arrangements across Australia. It is a tripartite body that works in partnership with governments, employers and employees to drive national policy development on WHS and workers' compensation.
2. Safe Work Australia is comprised of an independent Chair, Members representing the Commonwealth and each state and territory, Members representing the interests of workers and employers and the Chief Executive Officer of Safe Work Australia.

Overview of Safe Work Australia's submission

3. Safe Work Australia's submission into the Queensland Parliament's Inquiry into Occupational Respirable Dust Disease focuses on the extended terms of reference.
4. As a general overview, Safe Work Australia's submission:
 - provides workers' compensation data associated with relevant occupational respirable diseases caused by exposure to dust
 - provides information on the role of the model WHS laws in preventing and/or reducing harm caused by occupational respirable dust exposure to port, rail, power station, and other workers
 - summarises relevant outcomes of reviews undertaken, noting the operation of the model WHS laws will be reviewed in 2018, and
 - outlines the tripartite framework for developing and maintaining the model WHS laws as set out by the *Intergovernmental Agreement for Regulatory and Operational Reform in Occupational Health and Safety (IGA)* and the role of Safe Work Australia in developing national WHS policy.

Response to extended terms of reference

a) Occupational respirable dust exposure for:

- (i) coal port workers
- (ii) coal rail workers
- (iii) coal-fired power station workers
- (iv) other workers

5. Safe Work Australia compiles national workers' compensation statistics using data obtained from workers' compensation authorities in the Commonwealth and each state and territory. These data are collated into the National Data Set for Compensation-Based Statistics which is the primary source of information on work-related injuries and diseases.
6. Between 2000–01 and 2014–15¹, there have been 203 accepted workers' compensation claims in Australia associated with relevant occupational respirable diseases caused by exposure to dust²—specifically, pneumoconiosis (including silicosis and coal workers' pneumoconiosis, but excluding asbestosis), chronic bronchitis and emphysema.
7. Analysis of workers' compensation claims for these types of diseases, however, can be complicated by a number of factors. For instance, these diseases often result from long-

¹ This refers to the date of lodgement for the claim, not the period in which exposure occurred.

² The breakdown agency of Non-metallic minerals and substances is used as the most appropriate proxy for 'dust'.

term exposure or have long latency periods, which make the link between the work-related disease and the workplace difficult to establish.

8. As shown in Table 1, over the 15 year period, silicosis accounts for the majority (133 or 66 per cent) of the accepted claims, with pneumoconiosis (excluding asbestosis, silicosis and coal workers' pneumoconiosis) accounting for a further 45 claims. There has only been one claim related to coal workers' pneumoconiosis over the period, however, as the latest data available is for 2014–15, the data does not include any potential claims relating to recently diagnosed cases of coal workers' pneumoconiosis in Queensland and New South Wales.

Table 1: Number of accepted workers' compensation claims caused by dust* by type of respirable disease, 2000–01 to 2014–15 combined

Nature	Claims
Chronic bronchitis, emphysema and allied conditions	24
Pneumoconiosis due to coal dust	1
Pneumoconiosis excluding asbestosis, silicosis and coal workers' pneumoconiosis	45
Silicosis	133
TOTAL	203

*Break down agency of Non-metallic minerals and substances used.

9. Table 2 shows that the Construction (55 claims), Manufacturing (36 claims), and Electricity, gas, water and waste services (34 claims) industries accounted for the highest number of accepted claims over the period. Controlling for employment size, the Electricity, gas, water and waste services industry recorded the highest incidence rate (20.2 claims per million employees) over the period, followed by the Mining industry (11.7 claims per million employees).

Table 2: Number and incidence rate (claims per million employees) by industry, 2000–01 to 2014–15 combined

Industry	Claims	Incidence rate (per million employees)
Construction	55	5.8
Manufacturing	36	2.6
Electricity, Gas, Water and Waste Services	34	20.2
Mining	27	11.7
Public Administration and Safety	24	2.5
Professional, Scientific and Technical Services	5	0.5
Transport, Postal and Warehousing	5	0.7
TOTAL	203	

Note: Only industries with five or more claims are included therefore the number of claims do not add to the total.

10. Table 3 below shows the detailed industry sub-groups with the highest number of accepted workers' compensation claims.

Table 3: Number of accepted workers' compensation claims by industry sub-group, 2000–01 to 2014–15 combined

Industry sub-group	Claims
Water supply, sewerage and drainage services	24
Land development and site preparation services	23
State government administration	13
Construction material mining	12
Non-residential building construction	10
Heavy and civil engineering construction	10
Electricity generation	8
Defence	7
Other construction services	6
Coal mining	6
Structural metal product manufacturing	5

11. In relation to the specific roles listed in the expanded terms of reference, between 2000–01 and 2014–15 of the 203 accepted workers' compensation claims:

- eight were in the Electricity generation industry sub-group (includes coal-fired power station workers)
- three were in the Water transport services industry sub-group (includes coal port workers), and
- none were in the Rail freight transport industry sub-group (includes coal rail workers).

(b) The legislative and other regulatory arrangements of government and industry which have existed in Queensland to prevent or reduce the harm caused by occupational respirable dust exposure to port, rail, power station, and other workers

12. The IGA formalises the co-operation between the Commonwealth, state and territory governments to achieve harmonisation of WHS laws.

13. To drive the development and implementation of model WHS laws, the IGA requires the establishment of an independent body. To meet this requirement, Safe Work Australia was established by the *Safe Work Australia Act 2008* (the Act). The Act also sets out Safe Work Australia's functions which include revising the model WHS laws for the approval of Commonwealth, state and territory ministers with responsibility for WHS (WHS ministers).

14. Another of Safe Work Australia's functions is to prepare, and if necessary revise, model WHS laws (a model WHS Act and model WHS Regulations) for approval by WHS ministers and for adoption as laws of the Commonwealth and each of the states and territories.

15. The Queensland government implemented the model WHS Act and model WHS Regulations on 1 January 2012 and is responsible for enforcing the laws as implemented.

16. The model WHS Act requires a person conducting a business or undertaking—the primary duty holder—to ensure the health and safety of workers while at work as far as is reasonably practicable. This includes ensuring that the work environment is without risks to health and safety and that the health of workers and the conditions at the workplace are monitored for the purpose of preventing illness or injury of workers arising from the conduct of the business or undertaking.
17. The model WHS laws also address the classification, labelling and management of hazardous chemicals generated and used in the workplace, workplace exposure standards for hazardous chemicals and requirements for air and health monitoring. The model WHS laws impose requirements to ensure a broad level of protection to exposure to hazardous chemicals that are used, handled, stored and generated at the workplace.
18. Safe Work Australia is also responsible for developing model Codes of Practice which are practical guides to achieving the standards of health and safety required under the model WHS laws. To have legal effect in a jurisdiction, a model Code of Practice must be approved as a Code of Practice in that jurisdiction. Safe Work Australia also produces a range of other guidance material that reflect best practice and current evidence, developed in consultation with jurisdictional Regulators, industry and union representatives and other key stakeholders.
19. In relation to prevention and reduction of harm caused by occupational respirable dusts, Safe Work Australia has a suite of guidance to assist in managing the risk of exposure to coal dust including managing risks of hazardous chemicals in the workplace, workplace exposure standards and health monitoring.

(c) *Whether these arrangements were adequate, and have been adequately and effectively maintained over time*

20. There are very minor differences between the Queensland WHS laws and the model WHS laws. The *Work Health and Safety Regulation 2011* (Qld) combines the model WHS law requirements for monitoring airborne contaminant levels (specifically the requirement to keep records and make these records readily available to those who may be exposed). However, this does not impact on the substance of the regulations.
21. All model Codes of Practice have been adopted by Queensland.
22. Early review work on the model WHS laws has found that the laws are efficient and effective. The content and operation of the model WHS laws are scheduled to be reviewed in 2018.

(d) *The roles of government departments and agencies, industry, health professionals and unions in these arrangements*

23. As noted previously, Safe Work Australia is a tripartite body develops national policy on WHS and workers' compensation.
24. WHS ministers make decisions about the model WHS Act, Regulations, Codes of Practice and the *National compliance and enforcement policy* informed by Safe Work Australia.
25. The model WHS laws and the supporting model Codes of Practice were developed, and are maintained, through a tripartite consultative process involving Safe Work Australia's Members and their representatives. Where appropriate, key experts, academics and stakeholders are engaged to contribute to ensure the outcome is fully informed and based on evidence available.

(e) The efficacy and efficiency of adopting methodologies and processes for respirable dust measurement and mitigation, including monitoring regimes, engineering measures, personal protective equipment, statutory requirements, and industry policies and practices, including practices in jurisdictions with similar industries

26. Safe Work Australia is not able to provide views on the efficacy and efficiency of certain methodologies and processes for respirable dust measurement and mitigation.
27. Safe Work Australia, however, notes the conclusion of the Senate Committee on Health fifth interim report (2016), the Coal Workers' Pneumoconiosis Select Committee (2017) and the *Review of Respiratory Component of the Coal Miners' Health Scheme of the Queensland Department of Natural Resources and Mines* (Sim et al., 2016) that the issue seems to be one of compliance with the laws pertaining to dust mitigation and health monitoring rather than with the underlying methodologies and processes.

(f) Other matters the committee determines are relevant to occupational respirable coal or silica dust exposure.

Workplace Exposure Standards

28. Safe Work Australia is currently in the process of reviewing the workplace exposure standards for coal dust, silica and dusts listed in the *Workplace Exposure Standards for Airborne Contaminants* (2012)³. Outcomes of this review will include robust and sustainable methodologies to review the data available for airborne contaminants and to inform recommendations for changes to the list of workplace exposure standards and to the standards themselves. This process is expected to be finalised in 2018.

Schedule 14 to the model WHS Regulations

29. Safe Work Australia is also currently in the process of updating Schedule 14 to the model WHS Regulations⁴ which specifies chemicals that require health monitoring should there be significant risk of exposure to a worker carrying out ongoing work at a workplace using, handling, generating or storing a hazardous chemical. This includes an update to the type of health monitoring required for exposure to crystalline silica. These updates have been made in light of the outcomes of the Coal Workers' Pneumoconiosis Select Committee (2017) and the *Review of Respiratory Component of the Coal Miners' Health Scheme of the Queensland Department of Natural Resources and Mines* (Sim et al., 2016) and have been amended consistent with the approach being taken in Queensland. The suite of guidance includes guides for a person conducting a business or undertaking, workers and medical practitioners, and guidance on each chemical listed in Schedule 14. The updated guidance is expected to be published in late 2017.
30. Coal dust is not included in Schedule 14. However, as it is a hazardous chemical, where it exists in a workplace, a person conducting a business or undertaking would be required to deal with its risk to workers and other persons. Given there are valid techniques available to detect effects on worker health, a health monitoring program in relation to coal dust, may be a reasonably practicable measure that is required to be implemented by a person conducting a business or undertaking under the model WHS laws.

³ <https://www.safeworkaustralia.gov.au/system/files/documents/1705/workplace-exposure-standards-airborne-contaminants-v2.pdf>

⁴ <https://www.safeworkaustralia.gov.au/system/files/documents/1703/model-whs-regulations-28nov2016.pdf>

Deemed Disease in Australia report

31. In 2013 Safe Work Australia commissioned a review of the latest scientific evidence on the causal link between diseases and occupational exposures. The objective of the project was to develop an up-to-date evidence based Australian list of deemed diseases, that could be used by Australian jurisdictions considering a revision to the deemed diseases list in their workers' compensation legislation (noting that Queensland does not currently have a legislated deemed diseases list). Prior to the project commencing, most jurisdictions' deemed diseases lists had not been updated since they were introduced and therefore did not include some diseases for which there is now strong evidence of a causal link to work-related exposures.
32. The resulting *Deemed Diseases in Australia*⁵ report provides useful evidence-based information for anyone involved in the prevention or compensation of occupational disease. The report was released by Safe Work Australia on 31 August 2015. On completion of the report, the former Commonwealth Minister for Employment, Senator the Hon Eric Abetz, wrote to state and territory ministers with portfolio responsibility for workers' compensation seeking in-principle support for the report. All states and territories, except for Victoria, provided in principle agreement/support to consider using the *Deemed Diseases in Australia* report when reviewing their deemed disease provisions.

⁵ <https://www.safeworkaustralia.gov.au/system/files/documents/1702/deemed-diseases.pdf>