29 April 2019

Director
Occupational Hygiene Section
Safe Work Australia
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Dear Sir/Madam

Workplace Exposure Standards (WES) for airborne contaminants WES Review – Release 1: Respirable Crystalline Silica AND Respirable Coal Dust

The Minerals Council of Australia (MCA) appreciates the opportunity to comment on the Safe Work Australia (SWA) consultation on the draft evaluation reports for respirable crystalline silica (RCS) and respirable coal dust (RCD).

MCA continues to actively engage in and support the principles and objectives of the harmonisation of health and safety legislation to ensure the benefits of national consistency can be achieved in the longer term. The Australian minerals industry is committed to continuous improvement in all areas of health and safety and follows a best practice risk-based approach to managing risks of exposure to the workplace.

The minerals industry continues to advocate for the implementation of primarily advisory, non-mandatory occupational exposure standards, with mandatory standards limited to instances where clear criteria are met. This is best supported by detailed guidance or other educational material to facilitate continuous improvement in the development of best practice risk approaches for the management of workplace exposure hazards. This would need to be developed in close consultation with industry and subject matter experts and include consideration of health based and socio economic impacts such as carcinogenicity, serious disease and technical feasibility of compliance.

Through this submission, the MCA additionally supports the recommendations of the submissions made by the Queensland Resources Council (QRC) and the New South Wales Minerals Council made to this SWA consultation process.

Technical comment on the recommendation and basis for the workplace exposure standard

Safe Work Australia (SWA) is recommending changes be made to the 8-hour time weighted average (8-h TWA) for RCS and RCD workplace exposure standards (WES) as follows:

- 0.02mg/m³ crystalline silica (currently 0.1 mg/m³)
- 0.9mg/m³ (respirable dust) bituminous and lignite coal (currently 3 mg/m³)
- 0.4mg/m³ (respirable dust) anthracite coal (currently 3 mg/ m³)

These recommended limits largely reflect the position of the primary sources used in the review, particularly the American Conference of Governmental Industrial Hygienists (ACGIH) TLV-TWA

values. The ACGIH itself acknowledges however that its recommendations do not consider the issues of technical feasibility or economic impact on industry where its limits are adopted. In fact, ACGIH cautioned regulatory agencies against the application of TLV's in regulations as they "are not designed to be used as standards". MCA understands that the US has not adopted the ACGIH limits for either RCS or RCD.

MCA is of the view that SWA has not considered the Australian mining context in the review, nor has it examined the respiratory disease incidence data that is available from the Australian mining industry. This is a major flaw and prevents the review from being considered a process based on the best available science.

The MCA recommends that SWA conduct a full Regulatory Impact Assessment in consultation with the industry to identify the cost-benefit of the proposed changes. Transitional arrangements for any mandated changes to the exposure standards for RCS and RCD would have to include an assessment of operational impact as well as furthering Australian research and development for these workplace exposure standards.

Comments on the measurement and analysis information provided in the evaluation report

The minerals industry supports a legislative framework which facilitates effective management of risk that is relevant and proportionate to the needs of industry and based on robust consultation.

It is important that articulation of exposure standards in legislation or guidance materials does not lead to these being interpreted as the 'line in the sand' that defines acceptable levels of exposure, as this would drive a compliance focused approach and is unlikely to result in the best possible outcomes. Rather, legislation and supporting guidance should promote proactive and continuous improvement efforts informed by the best available information regarding recommended exposure standards and effective controls.

This approach must recognise the fast pace of technological advancements and the ongoing research that continues to inform occupational safety and health on hazardous and potentially hazardous chemicals as well as the need for practical and pragmatic approaches where the body of knowledge on a risk is not yet developed. In the case of RCS and RCD, the MCA asserts that such a body of knowledge in the Australian context is not defined well enough. The MCA recommends that SWA conduct a full Regulatory Impact Assessment in consultation with the industry to fully investigate hazards associated with RCS and RCD and the critical controls required to manage the associated risks.

The minerals industry is well known for its collaborative approach in improving health and safety, including dust monitoring and health surveillance related to dust diseases. The absence of regulatory oversight in enforcing exposure standards does not correlate to there being an issue with the present exposure standards for RCS and RCD.

Whilst MCA welcomes focus to important issues in improving health and safety in the industry, these should not be at the expense of an environment that encourages prompt learning and sharing of important health and safety outcomes.

If you have any questions about this submission please contact me via email (gavin.lind@minerals.org.au).

Yours sincerely

DR GAVIN LIND
GENERAL MANAGER – WORKFORCE AND INNOVATION