



Australian Government

**Senate Inquiry
Workplace Exposure to
Toxic Dust**

**Australian Government's
Response**

May 2008

BACKGROUND

On 22 June 2005, the Senate referred the matter of workplace exposure to toxic dust, to the Senate Community Affairs References Committee for inquiry and report.

The terms of reference for the inquiry covered:

- a. the health impacts of workplace exposure to toxic dust including exposure to silica in sandblasting and other occupations;
- b. the adequacy and timeliness of regulation governing workplace exposure, safety precautions and the effectiveness of techniques used to assess airborne dust concentrations and toxicity;
- c. the extent to which employers and employees are informed of the risk of workplace dust inhalation;
- d. the availability of accurate diagnoses and medical services for those affected and the financial and social burden of such conditions;
- e. the availability of accurate records on the nature and extent of illness, disability and death, diagnosis, morbidity and treatment;
- f. access to compensation, limitations in seeking legal redress and alternative models of financial support for affected individuals and their families; and
- g. the potential of emerging technologies, including nanoparticles, to result in workplace related harm.

The inquiry identified a need to improve data available for identifying the incidence of disease. The Committee concluded that without reliable data, the true extent of dust-related disease is unknown, trends cannot be identified in a timely manner and decision-making is hampered.

The Committee's examination of the adequacy and timeliness of regulation governing workplace exposures considered that improvements are needed in the introduction of changes to the declared standards and codes by all jurisdictions. The Committee considers that changes must be implemented expeditiously, and that reviews of existing standards must also be finalised in a timely manner.

The Committee report was tabled on 31 May 2006. The report makes 14 recommendations in total, eight of which are directed to the Australian Safety and Compensation Council (ASCC).

The ASCC is a tripartite body established in 2005 to lead improvements in workplace safety and workers' compensation in Australia. The ASCC comprises representatives from each state and territory government as well as the Australian Government, along with employer and employee representatives. The ASCC provides policy advice to the Workplace Relations Ministers' Council (WRMC) on national workers' compensation and occupational health and safety (OHS) arrangements to deliver nationally consistent regulatory frameworks. The work of the ASCC is supported by the Office of the ASCC, based in the Department of Education, Employment and Workplace Relations (DEEWR).

EXECUTIVE SUMMARY

The Australian Government supports the majority of the findings of the Senate inquiry, however, it is noted that a number of the recommendations made by the Committee have been directed to bodies outside of the Australian Government. Where recommendations have been made to bodies outside of the Australian Government, the Australian Government will liaise with these bodies seeking their consideration of the recommendations made by the committee.

The Australian Government has committed to work cooperatively with state and territory governments to harmonise OHS legislation, and to replace the ASCC with a new, independent national body. Any reference to the ASCC in this brief should be read as a reference to it or its successor.

The majority of the Committee's recommendations were made to the ASCC. The Australian Government considers that these recommendations are broadly consistent with the role of the ASCC and to its successor in coordinating national approaches to OHS and workers' compensation. The Australian Government will refer the recommendations to the ASCC, however, in some instances referral to, or cooperation with, other relevant groups such as Heads of Workplace Safety Authorities, is considered a more appropriate course of action.

The Australian Government's response to the specific recommendations in the Report is set out below.

Recommendation 1

3.59 That the Australian Safety and Compensation Council review the National Data Action Plan to ensure that reliable data on disease related to exposure to toxic dust is readily available.

Response:

The Australian Government supports the recommendation to make data on disease, including those related to exposure to toxic dust, readily available.

The National Data Action Plan, which was reviewed in 2004, includes the analysis and dissemination of information about occupational disease from a variety of sources. The Office of the ASCC has data that can provide information on disease related to toxic dust. These data include workers' compensation data, hospital separations data and the National Cancer Statistics Clearing House. Data from these sources are published in *Occupational Disease Indicators*.

The ASCC has developed a strategy for the surveillance of workplace hazards, currently obtaining national data on workplace exposures, including toxic dust. These data are providing the evidence base to inform future efforts to control occupational exposures and thus improve the prevention of disease related to occupational exposure to toxic dusts. The first National Hazard Exposure Worker Survey has now been completed and has collected self reported data on hazard exposures, including toxic dusts and information on the controls used in Australian workplaces. It is expected this survey will be repeated every two years. A supplementary detailed national survey specifically collecting data on hazardous substance exposures in the workplace is expected to be undertaken in 2008/2009. For hazards where the accurate self reporting of workplace exposures is difficult e.g. toxic dusts, research projects collecting measurements of actual exposures to particular hazards are also being undertaken. Over time these and other data sources will provide information on the levels of exposure to

workplace hazards in Australia and the adequacy of our national prevention activities. This data will be used by the ASCC and others to inform the development of national priorities, activities and related OHS guidance material.

Recommendation 2

3.60 That the Australian Safety and Compensation Council extend the Surveillance of Australian Work-Based Respiratory Events (SABRE) program Australia-wide and that the program provide for mandatory reporting of occupational lung disease to improve the collection of data on dust-related disease.

Response:

The Australian Government will ask the ASCC and the Heads of Workplace Safety Authorities (HWSA) to consider this recommendation.

SABRE is a voluntary scheme for collecting data on work-related lung disease. Physicians report to SABRE on cases of occupational respiratory disease, with the patient's consent. SABRE is not an Australian Government funded program. The Victorian /Tasmanian SABRE program is funded by the Australian Lung Foundation and the Dust Diseases Board funds the SABRE project in New South Wales.

As mentioned in the response to Recommendation 1, the ASCC has developed a strategy for the surveillance of hazard exposures, that will obtain reliable data on those agents to which workers are exposed. These data will inform efforts to control occupational exposures and thus improve the prevention of disease related to occupational exposure to toxic dusts.

Increased awareness among the medical profession of the health effects of exposure to toxic dust could increase participation in voluntary reporting programs such as SABRE.

Recommendation 3

4.34 That the Australian Safety and Compensation Council, in conjunction with the Heads of Workplace Safety Authorities, consider mechanisms to improve health surveillance of employees, particularly those exposed to toxic dust.

Response:

As mentioned in the response to Recommendations 1 and 2, the ASCC is currently concentrating efforts on supporting effective prevention of exposure to disease causing agents.

The Australian Government supports the recommendation to consider mechanisms to improve health surveillance of employees and will ask the ASCC and HWSA to consider this recommendation in terms of the work currently being undertaken by the ASCC for a national approach to the surveillance of exposure to hazards.

Recommendation 4

4.35 That the Australian Safety and Compensation Council promote the dissemination of information concerning the health effects of exposure to toxic dust to the medical profession.

Proposed Response:

The Australian Government supports this recommendation.

The Australian Government will ask the ASCC and other relevant bodies, such as the Australian Medical Council and the Royal Australian College of General Practitioners, to consider options for informing the undergraduate medical student population and postgraduate general practitioner profession on the health effects of exposure to toxic dust.

The Australian Medical Council is an independent national standards body for medical education and training and is responsible for accrediting Australian and New Zealand medical schools and medical courses. Inclusion of the health effects of exposure to toxic dust in the undergraduate medical curriculum could serve to initiate an awareness of this issue amongst the medical student group irrespective of their career path.

At the postgraduate level, the Royal Australian College of General Practitioners currently develops the training curriculum, sets vocational standards for general practitioners in Australia and commits to ensuring continued professional development and maintenance of professional standards through the Quality Assurance and Continuing Professional Development Program. As general practitioners are the first point of contact with the health system for most Australians, it could also be appropriate for the health issues surrounding exposure to toxic dust to be included in the education and training for general practitioners offered through such accredited colleges.

These mechanisms are likely to be the most effective means of addressing this recommendation.

Recommendation 5

4.36 That the Australian Safety and Compensation Council examine the need for improvements in testing regimes for lung disease associated with exposure to toxic dust including the training of those conducting tests and equipment requirements.

Response:

The Australian Government will refer the recommendation to the ASCC for consideration.

Recommendation 6

5.86 That the Australian Safety and Compensation Council undertake a national campaign to raise awareness of the hazards associated with toxic dust.

Response:

The Australian Government considers that HWSA, rather than the ASCC, is an appropriate body for facilitating coordination of a national campaign to raise awareness of the hazards associated with occupational exposure to toxic dust. The Australian Government will refer the recommendation to HWSA for consideration.

The Australian Government supports the need to increase awareness of workplace safety issues around Australia. The Australian Government, in cooperation with the state and territory governments, coordinates Safe Work Australia Week during October each year. Safe Work Australia Week presents a future opportunity for governments to raise awareness of the hazards associated with toxic dust.

Recommendation 7

5.87 That the Minister for Employment and Workplace Relations raise with the Workplace Relations Ministers' Council the need to ensure enforcement of hazardous substance regulations and the need to enact nationally consistent standards in a more timely manner.

Response:

The Australian Government supports the recommendation and notes that the Council of Australian Governments (COAG) decision 5.6 of February 2006 requested the ASCC to develop strategies to improve the development and uptake of national standards. In April 2007 the proposed strategy (National OHS Standards Framework) and timetable, put forward by the ASCC, was endorsed by COAG as part of COAG's *Regulatory Reform Plan April 2007*.

Work on the development of the National OHS Standards Framework has since been overtaken by the WRMC agreement of 1 February 2008, to initiate a review to consider the development of model legislation.

WRMC supported the Australian Government's intention to initiate a review to develop model legislation, and agreed that the use of model legislation is the most effective way to achieve harmonisation of OHS laws. COAG has since agreed that this is a top priority, and that its commitment to harmonisation would be reflected in an Intergovernmental Agreement by May 2008.

Agreement by the States and Territories to adopt model legislation will address the issues related to enacting nationally consistent standards in a timely manner. The Australian Government Minister will raise the need to ensure enforcement with WRMC Members.

Recommendation 8

5.88 That the Australian Safety and Compensation Council, in conjunction with the Heads of Workplace Safety Authorities, consider mechanisms to increase the number of occupational hygienists being trained and employed by regulators.

Response:

The Australian Government considers appropriate staffing (including skills requirements) of inspectorates is a matter for the state and territory jurisdictions, and not a role of the ASCC. The Australian Government will refer this recommendation to HWSA for consideration.

Recommendation 9

6.31 That State and Territory Governments move as soon as possible to set up nationally consistent identification, assessment and compensation mechanisms for persons affected by workplace related exposure to toxic dust and their families to at least the current New South Wales standard.

Recommendation 10

6.32 That the State and Territory Governments use the New South Wales Workers' Compensation (Dust Diseases Act) 1942 as the model for this mechanism.

Recommendation 11

6.33 That the State and Territory Governments, other than New South Wales, move as soon as possible to adopt the approach of New South Wales to remove statutes of limitation that restrict legal proceedings for claims for personal injuries resulting from exposure to toxic dust.

Response:

The Australian Government committed in its election campaign to work cooperatively with the State and Territory governments to harmonise workers' compensation arrangements commencing with greater alignment of administrative processes. The Australian Government also committed to replace the ASCC with a new, independent national body with representation from all Federal and State and Territory governments. Its functions will include policy development to deliver consistency across workers' compensation schemes.

The Australian Government will ask the ASCC replacement body to consider these recommendations as part of the broader considerations of workers' compensation issues.

Recommendation 12

7.84 That the National Nanotechnology Strategy be finalised as a matter of priority.

Response:

The National Nanotechnology Strategy is in operation to June 2009 and includes specific initiatives to:

- address the health safety and environmental (HSE) impacts of nanotechnology on regulations and standards;
- undertake a public awareness and engagement program to provide balanced advice on nanotechnology;
- establish a nano particle metrology capability at the National Measurement Institute; and
- facilitate a whole of government approach to nanotechnology through establishing the Australian Office of Nanotechnology

The Government is conducting a wide ranging review of Australia's national innovation system aimed at building a strong, coordinated system that will foster innovation in every area of the economy and across society. The Review will specifically look at the issues of frontier science and emerging or enabling technologies - such as nanotechnology - to determine how these technologies can be integrated into the national innovation system as a whole.

Recommendation 13

7.85 That a working party on nanotechnology regulation consisting of representatives of the Therapeutic Goods Administration, NICNAS and the Australian Safety and Compensation Council be established to consider the impact of the emerging field of nanotechnology on the regulatory framework including:

- whether existing regulations are appropriate;
- how gaps and uncertainties in the regulatory framework can be addressed;
- how comprehensive management of risks of exposure to nanoparticles can be incorporated into the regulatory framework; whether Australia will require materials, already classified as safe at the macroscale, to be reassessed if they are to be used at the nanoscale; and
- whether there is a need for the establishment of a permanent body to regulate nanotechnology.

The working party should consult with stakeholders including consumer groups, State and Territory governments, unions, industry, health organisations and the public and provide a public report on these issues by March 2007.

Response

As part of the National Nanotechnology Strategy (NNS) a Health, Safety and Environment (HSE) Working Group, involving relevant policy, regulatory and research funding agencies (and including the Therapeutic Goods Administration, NICNAS, Food Standards Australia and New Zealand, the Department of Health and Ageing, the National Health and Medical Research Council and the Office of the Australian Safety and Compensation Council), has been formed to address HSE issues and to ensure a coordinated whole-of-government approach to nanotechnology. The HSE Working Group has met 4 times since commencement of the NNS on 1 July 2007. It meets on an as needed basis. The NNS will cease on 1 July 2009.

Recommendation 14

7.86 That Commonwealth agencies including the Office of the Australian Safety and Compensation Council and NICNAS actively pursue links to overseas regulatory and research bodies to ensure that they are kept fully informed of developments in the rapidly emerging field of nanotechnology.

Response:

The Departments of Health and Ageing, Education, Employment, and Workplace Relations and the Environment, Water, Heritage and the Arts will pursue and maintain links to overseas regulatory and research bodies. Current examples include:

- NICNAS is an active member on the Organisation of Economic, Co-operation and Development's Working Party on Manufactured Nanomaterials;
- Food Standards Australia and New Zealand participates in food related nanotechnology events organised by the World Health Organisation/Food and Agriculture Organisation; and
- The National Measurement Institute and the Department of Employment, Education and Workplace Relations are actively involved with the International Standards Organisation Nanotechnology Committee (TC 229), which is working to develop standards in the field of nanotechnologies.