



Government of **Western Australia**
Department of **Commerce**
WorkSafe

**Submission Concerning The Costs Of Implementing
The Model Work Health and Safety Regulations and
Codes of Practice**

**Submission of the
Department of Commerce
(Western Australia)**

October 2012

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Introduction

WorkSafe WA is a division of the Department of Commerce, the Western Australian State Government agency responsible for the administration of the *Occupational Safety and Health Act 1984* (the OSH Act). The principal objective of the *OSH Act* is to promote and secure the safety and health of people in the workplace.

WorkSafe WA's submission concerning the implementation of the Work Health and Safety (WHS) model regulations and codes of practice identifies a number of new and significant costs to the regulator. No reductions in costs to WorkSafe WA from the WHS regulations have been identified. WorkSafe WA notes that an 11 April 2011 media statement by the Safe Work Australia Chair, indicates the process "is about harmonisation and putting everyone on the same page, it is not about rationalisation or reform."

The WHS regulations are a comprehensive scheme for regulating workplace safety. These regulations replace the Occupational Safety and Health Regulations 1996 (the OSH regulations). For many of the individual WHS regulations, while the wording will be different, the health and safety outcomes will be the same as those delivered under the OSH regulations.

Summary

For many of the WHS regulations, the consequences for the regulator are likely to be neutral. However, WorkSafe WA has identified a number of obligations it needs to meet which will incur costs. This submission covers those obligations identified to date and discusses the issues faced by WorkSafe WA. For some of these issues, estimates of costs have been made. However, there are still many matters that are not known and based on the information available, WorkSafe WA is not able to estimate the costs for those matters. Where costs or numbers can be estimated, they are identified in this submission.

This analysis recognises that it would be counter-productive to introduce laws and accept low compliance because the regulator does not have the resources to rectify the compliance matters.

In changing from one set of regulations to another, there is a recognition that the regulator and workplace participants will need to become familiar with applying the new laws. In replacing the long standing OSH regulations and accumulated familiarity, it is expected that overall, WorkSafe WA inspection activities will be reduced by 10 percent during the year of implementation. After the end of year three, it is expected that inspection activities will be normalised.

Generally harmonisation will deliver consistent outcomes with the OSH regulations. However, the WHS regulations introduce additional requirements for enforcement activities in areas such as work involving construction, asbestos, plant and noise. **An estimation of the costs WorkSafe WA will incur as a result of Western Australia adopting the WHS laws is as follows:–**

1. Initial set-up costs of \$8.5 million.
2. Ongoing annual costs of \$3.4 million which can be anticipated as increasing annually as the cost of labour rises.

In turn these requirements require greater involvement in workplaces by WorkSafe WA. This involvement leads to more compliance activities by WorkSafe WA, increased administrative costs for WorkSafe WA and workplaces and greater opportunity for conflict involving WorkSafe WA and workplace participants. Additional activities imposed on WorkSafe WA by the WHS regulations include:

- a) an estimated additional 5,700 construction notifications per year for demolition and non-friable asbestos work;
- b) reviewing 55,000 plant registrations (including the requirements for transferring the existing registrations to a new computer system) to enable five yearly renewals;

- c) receiving an estimated 6,000 registered plant renewals per year (30,000 over five years);
- d) approving or conducting competency assessments and issuing licences in relation to asbestos,
- e) making changes to High Risk Work Licence (HRWL) for boilers, reach stackers and concrete placing booms;
- f) making determinations in relation to competent persons for major inspections of registered plant and amusement devices;
- g) recording notifications of lead-risk work;
- h) transitioning requirements for assessments and asbestos registers for workplaces with structures built between 1990 and 2003; and
- i) transitioning requirements for over 100,000 audiology tests.

For many of the people who have the responsibility for complying with these additional requirements, providing notifications to a regulator will be new. In addition new boiler output thresholds bring a number of operators into the requirement for an HRWL. It is expected that for a number of reasons, many people will be reluctant to comply, or at least, will be indifferent to compliance. Depending on the level of non-compliance, WorkSafe WA expects a requirement for a significant proactive resource commitment aimed at achieving compliance. This will apply at least during the transition period and extend over a number of years.

It is expected that WorkSafe WA and government will receive additional complaints about costs, red tape and revenue raising as a result of compliance activities. Non inspectorate resources will be required to respond to these complaints.

At present, WorkSafe WA does not have the automated facilities to allow notifications and forms to be completed online and which electronically create a Request to Attend (RTA) or update a record. These facilities would provide a reduction in the amount of paper and the associated data input and administration resources. However, the automated facilities have not been

developed and resources will still be required to authorise any uploading and evaluation of the records. Generally forms are two pages and often have a coversheet. If the automated facility is not provided, processing the consequential volume of paper will require significant resources. It is also worth noting that those submitting the notifications and renewals will need to keep copies of any documents provided to WorkSafe WA.

WorkSafe WA may be required to become involved in competency assessments for some licences. If this occurs, and unless WorkSafe WA becomes a Registered Training Organisation (RTO), it is unlikely that the assessments will satisfy the requirements of the Australian Qualifications Framework (AQF) or Australian Skills Quality Authority (ASQA). In requiring an assessment, there is a possibility that the operator may not meet the necessary standard. If this occurs, the operator will not be able to continue doing the work they may have been doing without incident for some time.

WorkSafe WA anticipates that it will be required to allocate significant inspectorate resources to undertake proactive investigations with the aim of achieving a reasonable rate of compliance with the notification and renewal requirements.

As a result, WorkSafe WA is likely to be confronted with objections about issues such as the notification requirements.

In providing the cost estimates, WorkSafe WA notes that some significant costs cannot be determined on the information available. When the decisions are made, it would not be unreasonable to anticipate variations from the cost estimated. WorkSafe WA expects that the variations will lead to increased costs.

The WHS regulations include provisions for WorkSafe WA to charge fees to recover from workplace participants the costs incurred in providing services. The cost recovery can apply to issues such as issuing a High Risk Work

Licence (HRWL) and plant renewals. This would lead to a reduction in WorkSafe WA costs but an increase in costs to workplace participants.

Construction Notifications

In 2011/12, WorkSafe WA completed 7,715 reactive and proactive investigations at unique workplaces under the OSH Act and the Occupational Safety and Health Regulations 1996 (the OSH regulations). Of these investigations, approximately 2,700 construction workplaces were visited. Included in the construction investigations were just over 820 construction notifications - demolition (378), friable asbestos (37) and tilt-up (405) work.

Each of these notifications is received, manually typed into WorkSafe WA's computerised database and entered as an RTA, with the hard copy filed. The RTAs are categorised as reactive investigations and considered by one of three managers before being referred to inspectors for attention. It is estimated that 75 percent of these RTAs receive an inspector visit. Inspectors will make telephone calls for most of the remaining RTAs while some are categorised as not to attend.

The WHS regulations significantly increase the number of construction notifications to WorkSafe WA. In summary, the difference between the WHS and OSH regulations requirements are:

- a) Notice of Demolition Work
 - ⇒ The WHS regulations require that WorkSafe WA is notified of demolition at all workplaces (including commercial and where PCBU's demolish residential structures) that are at least six metres in height.
 - ⇒ The OSH regulations require that WorkSafe WA is notified of demolition at all commercial (non residential) workplaces that are 10 metres or more in height. In addition, the OSH regulations also exclude the requirements for demolition work being licensed in relation to specified circumstances for the metal fabrication or engineering industry. This exclusion is not in the WHS regulations.

- b) Asbestos removal work
 - ⇒ The WHS regulations require WorkSafe WA to be notified of asbestos removal work (friable and non-friable) at least five days before the work commences and if an emergency occurs at a workplace where asbestos is fixed or installed.
 - ⇒ The conditions included for an Unrestricted asbestos removal licence allowing the removal of friable asbestos, issued under the OSH regulations require that WorkSafe WA is given at least 7 days notice before the friable asbestos removal work commences.
 - ⇒ The OSH regulations do not require that WorkSafe WA is advised of non-friable asbestos removal work, or if an emergency occurs.
- c) Tilt-up work
 - ⇒ WHS regulations do not prescribe that WorkSafe WA is notified of tilt-up work which is a requirement under the OSH regulations.

It is estimated that WorkSafe WA should receive the following notifications under the WHS regulations:

a) Demolition	1,000
b) Asbestos friable	37
c) Asbestos non-friable	5,000
d) Asbestos emergency	500
e) Total	6,537

Less the demolition, friable asbestos and tilt-up notifications received in 2011/12, it is estimated that WorkSafe WA should receive an additional 5,700 notifications.

The number of additional notifications (5,700), recorded as reactive RTAs, is greater than the number of proactive unique workplaces investigated (3,250) conducted by all WorkSafe WA inspectors in 2011/12.

To data input and administer the additional notifications, WorkSafe WA will require two FTE. Based on the officers being at level 1, the salary and on costs for the additional two FTE would be \$223,000.

There are concerns that resistance, or at best disinterest, will create compliance challenges with WHS regulations' notification requirements during the transition and post transition. The six metre demolition threshold will include many single storey structures. The OSH regulations do not require that WorkSafe WA is notified of any residential demolitions and do not require that this demolition work is carried out by a licensed demolition entity. Although the notification requirements will apply consistent with the WHS regulations, it is intended that the Western Australian WHS regulations will similarly limit the demolition licence requirements to commercial structures.

Many of those doing work involving the demolition of domestic structures and the removal of non-friable asbestos will not have experience in notifying a regulator such as WorkSafe WA of their business activities. Much of the work can be done quickly and there is no centralised record of demolitions or demolition companies doing this work. If notifications are not received, it will be difficult for WorkSafe WA to target investigation activity to enforce compliance with the notification requirements.

It is not anticipated that WorkSafe WA will visit or contact all of the new construction notifications recorded as RTAs. On a risk assessment basis, the following additional costs for construction notifications and consequential RTAs are anticipated:

- a) Using a risk assessment approach, 2,280 unique workplace visits (40% of the 5,700 RTAs) would be referred to an inspector for attention after consideration by a manager.
- b) If the RTAs could be allocated to dedicated single purpose inspectors with a focus on a high processing rate and limited role, approximately five RTAs per inspector per day could be anticipated. This would require two level 5 FTEs. If the inspectors became engaged in other

inspectorial tasks during their inspections, this very high number of daily visits could not be achieved. A manager will also be required to make the RTA allocations and manage these inspectors. As these roles are likely to be highly repetitious and present limited challenges, they may be difficult to fill, particularly in the existing employment environment.

- c) For the 5,700 RTAs received and the 2,280 RTAs to be referred to an inspector, WorkSafe WA will require two level 5 inspectors and a level 7 manager. Recognising that for most of the non metropolitan area, a dedicated role will not be possible, a 25 percent loading has been added to the estimated costs. Based on the inspectors being at level 5 and the manager at level 7, including the 25 percent loading for non-metropolitan inspection, the salary and on costs for the additional three FTE would be \$760,000.

Falls and Inspection and testing of electrical equipment

The WHS regulations apply to workplaces generally and require that electrical equipment is regularly inspected and tested by a competent person in prescribed conditions. The OSH regulations prescribe that all portable electrical equipment used on a construction workplace is to be tested and tagged in accordance with AS/NZS 3012:2003 and carried out by a competent person who is either a licensed electrician or person who has successfully completed a competency-assessed training course in the use of a Portable Appliance Tester. These prescriptive requirements are not included in the WHS regulations.

The WHS regulations require that risks relating to falls from one level to another are eliminated or if not eliminated, managed, and include in the definition of high risk construction work and the requirements for a safe work method statement to be completed for high risk construction work (risks such as a person falling more than two metres).

The OSH regulations prescribe the requirements for the covering of holes and require edge protection at two metres for scaffolding, formwork and falsework and at three metres for other edges.

The removal of the prescription is likely to lead to savings for some workplaces. However, without the prescription, differences in views are likely between inspectors and PCBUs and workers at construction workplaces about the need for inspection and testing of electrical equipment, the need for edge protection and the two metre threshold applying generally.

The WHS Act allows PCBUs, workers and safety and health representatives can request a review of an inspector's decision in relation to issuing or not issuing an improvement notice. It is anticipated that as a result of these changes, the number of WorkSafe WA inspector visits for construction sites will be reduced by five percent. Costs for complaint management can not be easily estimated, but it would not be unreasonable to anticipate that there will be an increased workload and consequently some FTE implications.

Asbestos

WorkSafe WA has issued 14 Class A (friable – Unrestricted Asbestos Removal) and 880 Class B (non-friable – Restricted Asbestos Removal) licences.

The WHS regulations introduce a number of new asbestos related requirements for approval or enforcement by WorkSafe WA. These include:

- a) asbestos registers at workplaces built between 1990 and 31 December 2003 (asbestos registers for workplace built before 1990 are already required);
- b) health monitoring for Class B asbestos removal workers (health monitoring is already required for Class A asbestos workers);
- c) laboratories analysing asbestos;
- d) independent licensed asbestos assessors for Class A removal work;
- e) clearance certificates for Class B asbestos removal areas (clearance assessments are already a requirement for Class A asbestos removal sites); and
- f) transitioning asbestos workers to prescribed VET qualifications for asbestos workers, supervisors and Class A asbestos assessors.

It is estimated that there were approximately 20,000 commercial structures built in Western Australia between 1990 and 2003.

- a) A five year transition period would require on average 4,000 workplaces to be inspected by a competent person per year. There is no register of workplaces built during this time and no means of ensuring an even spread over a transition period for these inspections.
- b) As a result of the WHS regulations, PCBU's will have to meet the costs of inspections by competent persons. It is expected that a large number of these workplaces will not have asbestos. If there is significant opposition to the requirements or disinterest, the rate of voluntary compliance will be low.
- c) No estimate is available for the number of residences that have workplaces attached and were also built during this time.

High employee turnover rates for asbestos workers are likely to mean that PCBU's incur significant extra costs to meet the health monitoring and training requirements. The relatively small number of asbestos workers and supervisors overall could mean that courses are likely to be infrequent. This will make it more difficult for asbestos licence holders to complete work in short timeframes and there could be consequences for other regulators involved in the disposal of asbestos. Should this occur, WorkSafe WA and government will receive complaints.

The WHS regulations require that WorkSafe WA is notified of new, and changes to, asbestos supervisors. This is a new requirement for WorkSafe WA and Class B asbestos removalists. A 10 percent turnover based on 880 Restricted asbestos removal licences would mean 88 notifications. If the 10 percent calculation is done on the basis of an average of two supervisors per Restricted asbestos removal licence, the number of notifications is over 160.

There could also be difficulties in relation to the requirements for independent competent persons to undertake assessments. In the non-metropolitan area, these concerns are amplified. Of the 880 Restricted asbestos removal

licences, 430 are in non-metropolitan locations from Esperance to Kununurra with 50 locations having one or two Restricted asbestos removal licences.

If these difficulties occur, it is anticipated that WorkSafe WA and government will receive complaints and requests for exemptions with accompanying administrative workloads. In August 2012, Work Health and Safety Queensland issued an exemption which eased the clearance certificate requirements for domestic premises where asbestos work has been carried out.

Transitioning the non VET sector licence holders and workers to the WHS regulations VET sector competency training requirements is likely to create significant issues. The VET courses have not been finalised and no consideration has been given to the requirements for any transitioning assessments at this time. If an average of two workers per asbestos removal licence is used, approximately 1660 people will require assessment. Until the details of the VET course are known and processes finalised, costs to the regulator and industry can not be determined.

Requiring experienced asbestos workers to complete the VET course so that they can continue to do the same asbestos work, is likely to attract significant opposition from industry on the basis of costs. If WorkSafe WA was to perform the assessment, costs would still be incurred. However, the assessments would not be conducted consistent with the AQF. Regulations could be considered allowing WorkSafe WA to charge a fee to recover the costs of providing this service.

In requiring assessment, it is possible that existing workers may not satisfy the assessment requirements and would no longer be able to do the work they were doing under the OSH regulations. In these circumstances, WorkSafe WA and government will have to respond to complaints and any requests for review of decisions.

Considerable objection is expected to be received by WorkSafe WA and government about these requirements once enforcement commences. Costs for complaint management cannot be easily estimated, but it would not be unreasonable to anticipate that there will be an increased workload and consequently some FTE implications.

The Complaints and Licensing System (CALs) database which is used by WorkSafe WA to support licensing functions will require reconfiguration in order to add the licence category for Class A independent asbestos assessors. The cost for the reconfiguration is \$20,000.

Construction Projects

The WHS regulations introduce a \$250,000 threshold requiring a Principal Contractor for a construction project. The Principal Contractor has duties in relation to signage, WHS management plans, safe work method statements and other matters. The OSH regulations refer to main contractor and set the threshold for safety management plans at five or more persons.

Rather than the simple head count required under the OSH regulations, the threshold set by WHS regulations means WorkSafe WA inspectors may have to determine contract values before deciding on PCBU duties. Should these situations arise, WorkSafe WA inspectors will need to clarify the contract values before investigating substantive safety issues.

This is not expected to occur with great frequency. However, should there be disagreement about the need for a Principal Contractor, it is expected that the related investigation could be complex and will require additional WorkSafe WA resources. Costs for the more expansive investigations cannot be easily estimated, but it would not be unreasonable to anticipate that there will be an increased workload and consequently some FTE implications.

Diving Work

Part 4.8 of the WHS regulations includes prescriptive requirements for general (incidental and limited scientific) and high risk diving work. Apart from the general duty, the OSH regulations only have prescriptive requirements for construction diving work (OSH R3.29). The WHS high risk diving work and OSH construction diving work requirements are consistent.

The introduction of prescriptive regulations for general diving requirements, (including certificates of medical fitness, minimum competency requirements for divers and dive supervisors, dive plans and dive safety logs) will require additional compliance activity by WorkSafe WA inspectors.

The level of compliance and support for the regulations from industry will not be known until the regulations take effect. Therefore the WorkSafe WA inspector resources required to ensure compliance is not known. Costs for enforcing the additional laws cannot be easily estimated, but it would not be unreasonable to anticipate that there will be an increased workload and consequently some FTE implications.

Health Monitoring

WHS regulations for hazardous chemicals, lead-risk work and asbestos require PCBUs to ensure health monitoring for workers. These requirements are supported by regulations requiring the PCBU to give copies of the reports to the relevant workers and, if the health monitoring report contains any results which indicate the worker may have contracted a disease, injury or illness by carrying on the work, give a copy to the regulator.

The OSH regulations require the medical practitioner to send health reports to the regulator.

Although not certain, it is not expected that the number of health reports WorkSafe WA receives will vary significantly under the WHS regulations. However, PCBUs are likely to object to the change in process. The reasons

are likely to relate to PCBUs having the additional responsibility and costs of advising the regulator and providing copies to workers. Some doctors may support the change as they are removed from the reporting responsibility.

No centralised database is available of workplaces or PCBUs likely to have workers requiring health monitoring. In view of these circumstances and the change requiring that PCBUs provide the reports, significant WorkSafe WA inspector and promotional support will be required to achieve compliance with the requirement.

Costs for enforcing the additional laws cannot be easily estimated, but it would not be unreasonable to anticipate that there will be an increased workload and consequently some FTE implications.

High Risk Work Licence (HRWL)

The WHS regulations introduce changes to the boiler, reach stacker and vehicle-mounted concrete placing boom classes of HRWLs.

- a) The three OSH regulation HRWL classes for boilers (Basic, Intermediate and Advanced) are converted to the two Standard and Advanced classes and the output threshold of 500 kilowatts is reduced to 150 kilowatts before an HRWL Basic boiler class is required.
- b) An additional class for reach stackers is created from the non-slewing mobile crane class.
- c) The vehicle-mounted concrete boom class has been extended to require an HRWL for all concrete booms including static booms.

WorkSafe WA has 991 boiler HRWLs (basic - 15, intermediate – 758 and advanced 218). These will need to be transitioned to two classes. Information has not been provided to map the competencies between the classes. To change from three classes to two classes, assessments of operator competency will be required by either an RTO under the AQF or by WorkSafe WA. The operators are likely to raise concerns that they have to undergo

further training to operate a boiler they are already licensed to operate and the PCBUs are likely to be concerned about costs and time off work.

For operators of boilers between the output threshold of 150 kilowatts and 500 kilowatts, the competency assessments are likely to be more comprehensive than for those operators already with an HRWL. The reduction from 500 kilowatts to 150 is likely to mean hundreds of boilers in WA will now require operators to obtain an HRWL. In addition, many of the boilers will require more than one operator to be licensed in order to allow for leave (such as annual and sick) and extended hours of operation. The locations of the 150 to 500 kilowatt boilers are not known and the actual number of operators can not be determined. Many of the workplaces affected are likely to be small businesses. Being a new imposition, opposition from these PCBUs to the licensing requirement, together with significant non-compliance is expected.

WorkSafe WA will have to configure CALS to create another two boiler HRWL classes. The three existing classes will be required until all of the operators have either been transitioned to the WHS classes or their licences cancelled or expired.

Under the OSH regulations, a non-slewing mobile crane HRWL is required to operate a reach stacker. No record is kept of the number of reach stacker operators using a non-slewing mobile crane HRWL. An estimate is that there are 150 reach stacker operators with existing non-slewing mobile crane HRWLs. Assessments will be required of operator competency by either an RTO under the AQF or ASQA or by WorkSafe WA. The operators are likely to raise concerns that they have to undergo further training to operate a reach stacker when they are already licensed to operate and the PCBU is likely to be concerned about costs and time off work. Costs for assessments cannot be determined at this time with the information available.

The WHS regulations require an HRWL for a “concrete placing boom” and extend the requirement for an HRWL to operators of static concrete placing

units. The OSH regulations require an HRWL for a “vehicle mounted concrete placing boom”. WorkSafe WA estimates there are 150 Vehicle mounted concrete placing boom HRWLs and up to 100 static concrete placing units. Assessments of operator competency will be required by either an RTO under the AQF or by WorkSafe WA for static concrete boom operators. As static boom operators do not have an HRWL and have not had competencies assessed under the AQF, these assessments are likely to be comprehensive. The operators are likely to raise concerns that they have to undergo further training to operate a static concrete boom they already operate (or operate quite safely without an HRWL) and PCBUs are likely to be concerned about costs and time off work.

National consistency will be lost once jurisdictions have adopted the WHS definitions of HRWLs while other jurisdictions continue to use their existing definitions based on the National Standard for Licensing Persons Performing High Risk Work.

The WHS regulations allow WorkSafe WA to exempt a person from complying with the requirements for an HRWL class. WorkSafe WA anticipates that by including such an HRWL exemption regulation, parties are more likely to make applications. In addition, decisions rejecting exemption requests are reviewable by external parties. As a result, WorkSafe WA anticipates some additional work in responding to HRWL exemption requests. Costs for administering the exemption requests can not be easily estimated, but it would not be unreasonable to anticipate that there will be an increased workload and consequently some FTE implications.

At \$20,000 per class for the reach stacker and two new boiler classes, \$60,000 is the estimated cost for configuring the CALS database which is used by WorkSafe WA to support the issuing of HRWLs.

Each of the existing HRWL boiler and non-slewing mobile crane operators will need to be contacted and advised of transitional arrangements. This will require a mail out to 22,000 HRWL holders.

Lead risk work

The WHS regulations require that WorkSafe WA is notified of lead risk work at least 7 days before the work commences and is given a written notice if there is a change to the details in the notification. The WHS regulations also extend notification duties to emergency services. These are new requirements on industry and WorkSafe WA as the OSH regulations do not include notifications for lead risk work. Lead risk work may involve fire assays, foundries, lead battery works, lead paint works, monumental works, radiator repairs and shooting galleries. It is estimated that there are around 400 lead risk PCBUs.

It is expected that for a number of reasons, non-compliance or at least indifference to compliance, will be a significant issue. For many of the people who have the responsibility for complying with these additional lead risk notification requirements, providing notifications to a regulator will be new. Depending on the level of compliance, these notifications will require proactive compliance activity directed at ensuring PCBUs send the initial notification forms to WorkSafe WA.

After the initial transition where the initial lead risk work notification is made, WorkSafe WA does not expect to receive many new notifications or change to details notifications.

Noise – audiometric testing

Part 4.1 of the WHS regulations requires a PCBU to provide audiometric testing for workers using PPE where the noise exceeds the exposure standard (LAeq,8h of 85 dB(A) or LC,peak of 140 dB(C)) and within three months of the worker commencing the work. The OSH regulations do not prescribe that tests are conducted although the Commission for Occupational Safety and Health's

Managing Noise At Workplaces Code Of Practice 2002 states that an “audiometric testing program should be available to any employee likely to be regularly exposed to excessive noise” (9.2). Mandatory hearing tests at 85 dB(A) will be a new requirement for Western Australian workplaces.

To estimate the number of audiology tests in Western Australia under the WHS regulations, comparisons have been made between WorkCover statistics and the Australian Safety and Compensation Council’s Work-Related Noise Induced Hearing Loss in Australia 2006 Report at Table 4. It is estimated that just over 100,000 existing workers will require the initial testing. This is 50,000 tests per year.

- a) In 2009/10, under the WorkCover requirements just over 48,000 baseline and retests in relation to its 90 B(A) threshold were conducted. After the initial transition, it is estimated that there will be 40,000 retests and 30,000 initial tests (total 70,000) per year. It would be hoped that the WorkCover and WHS requirements could be accommodated by one test. However, there would still be an additional 22,000 initial tests and retests per year.
- b) WorkSafe WA has been advised that costs for air conduction tests carried out by approved WorkCover providers can range between \$40.00 and \$62 + GST per person.

It is not certain that there will be sufficient service providers to do the audiology tests during a two year transition.

Costs for enforcing the additional laws can not be easily estimated, but it would not be unreasonable to anticipate that there will be an increased workload and consequently some FTE implications. The transition period is likely to require additional compliance activity by WorkSafe WA.

Plant

The WHS regulations limit the registration of plant to five years and require that WorkSafe WA is given written notice of any changes to the prescribed details. The OSH regulations do not require renewals for registered plant. At present WorkSafe WA has just over 55,000 items of plant registered. The details have been recorded electronically from 1996. In 2011/12, WorkSafe WA registered 3,993 items of plant.

In order to commence the process of renewing the registration of plant, the status and ownership (control) of each of the existing registered items of plant needs to be determined.

- a) WorkSafe WA's registration records have contact details. However, these details are not in a format which can be used as a mailing list. In addition, many of the registered plant items are likely to have changed ownership (more than once), no longer be in Western Australia, be decommissioned or have their whereabouts unknown.
- b) To facilitate the renewals, the existing plant records will need to be transferred from the WorkSafe WA Information Systems Environment (WISE) to the CALS database. Establishing necessary processes in CALS will require significant computer programming and updating of the registered plant details kept by WorkSafe WA. An estimated cost for the computer programming to accept the plant registrations is \$1.2 million. Further enhancements to CALS and significant work to make the database as accurate as possible will also be required in order for the system to function as intended. These are estimated at \$550,000 making a total of \$1.75 million.
- c) Once the database is finalised, the status of each item of registered plant will need to be determined. A significant number of contact details and records are likely to be incorrect or outdated. Bearing in mind some of the details predate 1996, either locating or determining if each of the 55,000 items of plant should still be registered is likely to require significant resources to clarify. Those items of plant that have been out of service for some time or where those in control are persons who might oppose the requirement or are indifferent to compliance, will

be difficult to locate and require the most resources. In 2011/12, WorkSafe WA visited 5,643 unique workplaces.

- d) The set up costs will be significant. Once the renewal system is operational, licensing fees will be charged on a cost recovery basis.
- e) WorkSafe WA estimates that of the 55,000 registered items of plant, 30,000 are in service at 15,000 workplaces (an average of two items of registered plant per workplace). Averaged over five years, 6,000 renewals (at 3,000 workplaces) will be required. WorkSafe WA already conducts audits of registered plant although the number is not recorded. In addition to the audits of renewals received, the WHS renewal requirements will result in WorkSafe WA additionally investigating those registered items of plant which are not renewed. At 10 percent for non renewal, WorkSafe WA would have to investigate an additional 300 workplaces throughout Western Australia. These investigations might relate to non-compliance with renewals or verifying that renewal documentation has not been provided because the plant has been decommissioned or control has moved to another PCBU.
- f) Bringing the estimated 30,000 items of registered plant into a regulated system requiring five yearly renewals raises issues which have not been resolved. For example:
 - ⇒ Starting all renewals for existing registered items of plant on the same date will create a very significant peak processing time for WorkSafe WA. Sending notices, processing payments, responding to enquiries and enforcing non-compliance for 30,000 items of registered plant will create peak resourcing issues for WorkSafe WA every five years. Over time as new registrations are issued with renewals, this peak demand may decline. However, small numbers of renewals spread over an extended period of time with a significant five yearly peak will create operational issues for the regulator rather than reduce costs.
 - ⇒ Evenly spreading the registrations will mean some workplaces incur costs earlier than others. This is likely to raise fairness issues. The difference in time could be up to five years.
- g) No system or timeframe has been identified which would provide for an even spread of registered plant items being renewed across five years, be fair to all parties and manageable by the regulator. WorkSafe WA

has provided estimates for renewals. These are conservative cost estimates and depending on which system is chosen, the costs are likely to increase.

The set up costs for renewing registered plant items are significant.

- a) The computerised database of registered plant items commenced in 1996. At the time, existing hard copy records of registered plant items going back to the 1950s were uploaded. The older the registration, the more likely the address details of the initial responsible party are incorrect, the item has been sold or decommissioned or the item's whereabouts are unknown.
- b) Even if records are correct, a significant number of renewals will not be made whether a conscious decision or through indifference to a scheme that will result in ongoing compliance costs to a PCBU.
- c) The following estimates are used for the transition costs:
 - ⇒ 35 percent of plant items currently registered have incorrect addresses or have been sold to other parties (19,250)
 - ⇒ 25 percent are decommissioned or are no longer in service (13,750)
 - ⇒ 25 percent do not acknowledge the renewal (13,750)
 - ⇒ 15 percent voluntarily comply with the plant renewal requirements (8,250)
- d) The status for each of the registered items of plant that are not voluntarily renewed needs to be determined. For many of the older items, particularly those that have been sold, the status will never be known.
- e) Even if 16,500 plant items are voluntarily renewed, the status for 38,500 items of plant would require action by a WorkSafe WA officer.
- f) ** 16,500 plant items is more than half the estimated 30,000 items of registered plant in service. Accepting this as a level of voluntary compliance, is a very optimistic view.
- g) 29 officers will be required (either for one year or spread over five years) to review the status of 38,500 items. The officers will need to be dedicated to a single purpose with a focus on a high rate of processing

and limited role. If the officers became engaged in other inspectorial tasks during their inspections, this very high number of daily visits could not be achieved. If plant items have been sold to more than one owner, the process will be longer. As the ownership and status of many of the items of plant will have changed, it would not be appropriate to use the average of two items of plant per workplace for this calculation.

- h) Based on the officers being at level 5, the salary and on costs for the 29 officers would be \$5.3 million.

The administration costs once the system is in operation will include processing renewals and updating records of changes to registration documents. At 10 percent of the registered items of plant, this will mean 3,000 individual processes per year.

- a) After the initial transition, the number of renewals and confirmation of changes to registration per year are estimated to be:

⇒ Renewals	6,000
⇒ Renewal non compliance follow up	600
⇒ Changes to registration notifications (@ 10 percent of the estimated 30,000 plant items requiring renewal)	3,000
⇒ Total additional transactions	9,600

- b) The additional resources required to support a highly computerised registration and renewal system with minimal data input requirements is estimated at two FTEs (2 X Level 2 = \$280,000).

WorkSafe WA will also incur compliance costs once the transition is completed:

- a) The following estimates are used for the ongoing costs
 - ⇒ 6,000 items of plant at 3,000 workplace to be reregistered per year (6,000 per year over five years = 30,000)
 - ⇒ 60 percent of workplaces (1,800) comply with renewal requirements when an invoice is received from WorkSafe WA
 - ⇒ 40 percent of workplaces (1,200) do not renew registrations and require investigation by a WorkSafe WA officer

- b) Officers will be required to pursue compliance with 1,200 workplaces. To achieve these inspections, the officers would need to be dedicated to a single purpose with a focus on a high rate of processing and a limited role. If the inspectors became engaged in other inspectorial tasks during their inspections, this very high number of daily visits could not be achieved. Based on the officers being at level 5, the salary and on costs for the 1.2 FTE with a 25 percent loading for the non-metropolitan area would be \$274,000.
- c) Two officers will be required to administer the renewals. Based on the officers at level 2, the salary and on costs for the two FTE would be \$125,000.

It is apparent that introducing a requirement for renewals for items of plant registration is beyond WorkSafe WA's existing resources. Consequently, to achieve compliance will require a significant increase in WorkSafe WA resources (including FTEs) and computer technology.

The WHS regulation requires that competent persons carry out major inspections of registered mobile and tower cranes; and annual inspections of amusement devices. These WHS regulations define a competent person as a person who:

- ⇒ has the skills, qualifications, competence and experience to inspect the plant; and
- ⇒ is an engineer registered under a law; or
- ⇒ is determined competent by the regulator.

The OSH regulations require that amusement structures are operated and maintained and inspected in accordance with the specified Australian Standard and that a crane, hoist or building maintenance unit at a workplace must be maintained, inspected and operated in accordance with specified written instructions or with the specified Australian Standard. The OSH regulations do not prescribe that an engineer be involved in these processes, although the Australian Standards indicate that an engineer should be involved. For many of these items of plant, having done a risk assessment or verified manufacturer's

instructions, engineers are involved in these activities. However, not all of these items of plant will necessarily have an engineer involved as the WHS regulations require.

There are concerns, particularly in relation to amusement devices, that there is an insufficient number of engineers to participate in the required activities.

The WHS regulations also allow, where there are exceptional circumstances, for the regulator to determine a person who is not an engineer can do this work. WorkSafe WA continues to argue that the regulations are not practical and there is discussion nationally about amendments. Until there is agreement in relation to how the regulators will make decisions, the number of persons who might make an application for a determination cannot be made.

Putting these concerns and possible amendments aside, WorkSafe WA will incur costs in considering applications from service providers who wish to be determined as a competent person. It would not be unreasonable to anticipate that there will be an increased workload and consequently some FTE implications.

If the engineer requirements are applied as the WHS regulations prescribe, existing providers who are not engineers will no longer be able to provide many of their services unless the existing providers meet the competent person requirements. In requiring a competent person assessment by WorkSafe WA, some existing operators may not meet the required standard. In these circumstances, the person would not be able to continue to carry out work they may have been performing for some time without incident. WorkSafe WA will incur costs in making determinations about competent persons. It is anticipated that WorkSafe WA and government will also receive complaints and requests for reviews of decisions where existing providers are stopped from providing these services. The costs for responding to these situations cannot be easily estimated, but it would not be unreasonable to anticipate that there will be an increased workload and consequently some FTE implications.

Other issues

Promotional activities will need to be taken to advise workplace participants of the WHS regulation changes. The promotional activity will include letters and educational activities by WorkSafe WA officers. Changes to HRWLs and requirements in relation notifications, asbestos licensing and plant renewals apply to many workplace participants who have not previously had the prescribed requirements. As a result, the promotional activities will need to include advertising during transitional periods for the items mentioned above. The cost of promotional activities can vary widely depending on the media used and the duration of the activities. Consequently the estimated expenditure for the three years is in the range of \$380,000 to \$1.5 million. For the purposes of this exercise, the approximate mid-point of \$1million is used.

Conclusion

For many of the issues identified in this submission, the costs for enforcing the additional laws cannot be easily estimated, but it would not be unreasonable to anticipate that there will be an increased workload and consequently some FTE implications. However, WorkSafe WA has generalised costs for these issues in order to provide an indication of the costs WorkSafe WA will incur as a result of the WHS regulations.

As noted earlier there are still many matters in relation to the implementation process that are yet to be fully determined and based on the information available, WorkSafe WA is not able to estimate the costs for those matters. It is our view that the amounts used in this submission are likely to be exceeded once the full implementation process is determined.

Where costs or numbers can be estimated, they have been identified in this submission and provided a resultant costing of:

- a) Initial set-up costs of \$8.5 million.
- b) Ongoing annual costs of \$3.4 million which can be anticipated as increasing annually as the cost of labour rises.