13 September 2018

Director
Occupational Hygiene Section
Safe Work Australia
GPO Box 641
CANBERRA ACT 2601

WES@swa.gov.au

Dear Sir/Madam

CONSULTATION REGULATION IMPACT STATEMENT – WORKPLACE EXPOSURE STANDARDS FRAMEWORK UNDER THE MODEL WORK HEALTH AND SAFETY LAWS

The Minerals Council of Australia (MCA) appreciates the opportunity to comment on the Safe Work Australia Consultation regulation impact statement: workplace exposure standards framework under the model work health safety laws.

MCA continues to actively engage in and support the principles and objectives of the harmonisation of 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.

In a joint submission to the 2015 Safe Work Australia (SWA) discussion paper *The role of chemical exposure standards in work health and safety laws*, the minerals industry recommended implementing primarily advisory, non-mandatory occupational exposure standards, with mandatory standards limited to instances where clear criteria are met. Detailed guidance or other educational material to facilitate continuous improvement in the development of best practice risk approaches for the management of chemical exposure hazards was also recommended.

When applied to the three options presented in the Consultation Regulation Impact Statement (RIS), option one, maintain the status quo, is not viable and therefore not the preferred option for the minerals industry. In considering option two, streamlined methodology with mandatory standards and option three, streamlined methodology with advisory standards, a combination of elements from both would be viable and consistent with these recommendations.

Therefore, in accordance with paragraph 149 of the RIS, the preferred option is a hybrid of two and three, viz. a streamlined methodology with advisory non-mandatory occupational exposure standards and limited mandatory standards where clear criteria of need are satisfied – supported by guidance material.

These criteria 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.

This preferred hybrid option would result in risk-based, outcomes focused and flexible exposure standards in Australia that reflect the wide range of operating environments, encourage regulatory efforts on complex and critical standards and facilitate timely review and update of all standards.

Application of this option would also:

- Clarify that advisory standards are a maximum and do not indicate a tolerable level of exposure
- Enable standards to be kept up to date, given a regulatory impact statement (RIS) would not be required for each change
- Ensure regulator prioritisation of complex and critical mandatory standards does not impact review and update of less complex but still important standards
- Facilitate a regulatory approach which incentivises continuous improvement.

The minerals industry supports a legislative framework which facilitates effective management of risk that is relevant, proportionate to the needs of industry and based on robust consultation. Application of the proposed hybrid option would contribute to delivering regulation that is streamlined, easy to understand and minimises regulatory and administrative burden.

If you have any questions about this submission please contact Gavin Lind [redacted]

Yours sincerely

[redacted]

Dr Gavin Lind

Director Workforce and Health and Safety, Environment and Communities

Level 3, 44 Sydney Avenue
Forrest ACT, 2603

PO BOX 4497
Kingston ACT 2604

Telephone: + 61 2 6233 0600
Email: info@minerals.org.au

Web: www.minerals.org.au
ABN: 21 191 309 229