



Respondent No: 1

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Responded At: Sep 29, 2023 21:21:28 pm

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IP Address: [REDACTED]

Q1. Title, first name and surname

[REDACTED]

Q2. Email

[REDACTED]

Q3. Contact number, including area code

[REDACTED]

Q4. This submission is written on behalf of an:

Organisation

Q5. Which of the following categories best describes you? Choose more than one if applicable.

Professional or peak body representative

Q6. Which jurisdiction is your workplace in? Choose more than one if applicable.

Commonwealth
Australian Capital Territory
New South Wales
Northern Territory
Queensland
South Australia
Tasmania
Victoria
Western Australia

Q7. What industry do you operate in? Choose more than one if applicable.

Agriculture, Forestry and Fishing
Mining
Manufacturing
Electricity, Gas, Water and Waste Services
Construction
Wholesale trade
Retail trade
Accommodation and Food Services
Transport, Postal and Warehousing
Information Media and Telecommunications
Financial and Insurance Services
Rental, Hiring and Real Estate Services
Professional, Scientific and Technical Services
Administrative and Support Services
Public Administration and Safety
Education and Training
Health Care and Social Assistance
Arts and Recreation Services

Q8. Publication of submission (select one)

Publish my submission online (your organisation or individual name will be identified along with your submission)

Q9. Would you like to complete the submission online or upload a document?

I would like to complete an online submission

Q10. Do you have a clear understanding of the definitions of a competent person for asbestos-related tasks? How could any misunderstandings be addressed or clarified?

At present, the definition of a competent person for asbestos-related tasks is not clearly defined. As one example (Clause 419 (5)), a competent person is required for the asbestos-related task of "soil assessment for the presence of friable asbestos". The AIOH is aware of consultants who have incorrectly classified non-friable asbestos as friable. This has significant consequences with respect to management, removal methodologies and controls, associated logistics and costs to be incurred by a PCBU. A competent person in this context must understand what friable asbestos is and be able to identify it correctly. This information is required for undertaking appropriate risk assessments and to ensure controls are commensurate with the risks posed by the actual type of asbestos present. Part of this work includes interpretation of what is considered a "trace" level of asbestos in soil. Clause 419 (5) (a) (ii) states Subregulation (1) does not apply to the following: if friable asbestos is visible—does not contain more than trace levels. The term 'trace' in AS 4964:2004 has a different meaning to what we believe is the intent of the Regulation. Trace asbestos in accordance with AS 4964:2004 indicates "free" fibres (including respirable asbestos fibres) that are present in the soil (or other non-homogeneous samples such as dust). This type of sample has a higher risk level because those fibres are already in the size range which has the ability to become airborne with minimal disturbance (without any controls). Clause 419 (5) (a) (i) states Subregulation (1) does not apply to the following: soil that a competent person has determined: (i) does not contain any visible ACM or friable asbestos. Many consultants (particularly environmental consultants) who do not visually see ACM or friable asbestos during a site assessment, will classify asbestos in soil as friable due to isolated fibre bundles or small asbestos cement fragments identified by microscopic analysis in soil samples. This is not 'visible', it is a misinterpretation of the NEPM requirements when recommending remediation or removal and leads to inconsistency across industry. Some confusion has been introduced by the title and scope of VET training for an 'asbestos assessor' and subsequent licencing by the Regulator for a Licensed Asbestos Assessor (LAA). PCBUs naturally think these licensed persons can 'assess' asbestos for asbestos in all types of circumstances (buildings, structures, soils, wastes and recycled materials), prepare asbestos registers and conduct risk assessments. However, the VET training requirement only includes air monitoring which is a totally different skill set to identifying and sampling asbestos for an asbestos register or in preparation for demolition or remediation works, assessing exposure risks and preparing important documentation such as an asbestos management plan (AMP). The LAA training does not therefore guarantee competency to effectively identify all types of ACM and undertake an inspection of a building or structure for the purposes of an asbestos register or conduct risk assessments and prepare AMPs; rather the LAA's VET training is related to the various tasks associated with Class A licensed asbestos removal works. The LAA should be competent in reviewing asbestos removal control plans for friable asbestos removals, conducting air monitoring during the removal work and for clearance air monitoring, and carrying out a clearance visual inspection, and issuing a clearance certificate for the work. The role of the LAA and the associated competencies required to perform their duties must be made clear with appropriate training mapped to these skills/knowledge, so the persons undertaking the work can be trained, tested and deemed competent and both the LAA and PCBUs understand the functions and tasks which can be competently performed by a LAA. . The name of the LAA may be required to be amended to more accurately reflect the type of work the person can perform, as it is not based on assessing asbestos, rather the LAA is charged with performing functions within the occupational hygiene skill set specifically targeted to ensure Class A licensed asbestos removal is controlled to ensure compliance with exposure standards and further that exposures are driven as low as practicable (i.e. best practice). Further clarity is needed for competency criteria around experience, training and qualifications for persons who undergo the various asbestos related works, with specific job titles/job classifications for types of asbestos related work. The current unit of competency: CPCCE5001 - Conduct air monitoring and clearance inspections for asbestos removal work is required for persons undertaking occupational hygiene works related to friable asbestos. The person who conducts this work is currently known as a LAA (when approved and licensed by the Regulator), however as described above, the specific tasks that the LAA can competently conduct require clarification. For persons who undertake asbestos surveys of buildings and structures, examples of suitable qualifications and training include: - Successful completion of British Occupational Hygiene Society (BOHS) course IP402: Surveying and sampling strategies for asbestos in buildings - Demonstrated experience conducting asbestos surveys, including at least 6 months of active time working under the direct supervision of an experienced surveyor performing surveys. - Full member of a professional association e.g. the Australian Institute of Occupational Hygienists or

the Faculty of Asbestos Management of Australia and New Zealand who has demonstrated experience conducting asbestos surveys, including at least 6 months of active time working under the direct supervision of an experienced surveyor performing surveys; or - Employed by a NATA accredited company (under ISO 17020 for inspections) and authorised by them to conduct asbestos surveys.

Q11. Do you see a benefit in aligning the training, qualification and experience requirements of competent persons, licensed asbestos assessors and asbestos removal supervisors for asbestos-related tasks? If so, what do you think the training, qualification and experience requirements should be? Please provide information and reasons to support your response.

While in principal, it is beneficial to have relevant stakeholders with the same correct information, the training and skill sets must be clearly defined for the different tasks and roles. This was to be modelled on the work implemented in the ACT at the time of the development of the WHS regulations and revisiting that work could be beneficial. It is understood the ACT brought in new requirements for training over a number of occupations in 2019. The ACT Work Health and Safety Regulation 2011 requires that a person conducting a business or undertaking must ensure that a worker engaged in a specific occupation must be trained in 10852NAT - Course in Working Safely with Asbestos Containing Materials. Training for a competent person (re: asbestos work) and LAA needs to be improved nationally to minimise inconsistency in the way surveys and clearances are conducted. It is worth requiring a higher level of training for people conducting friable clearance etc, so there should be a difference between 'competent' person and LAA but these roles need to be better defined and training levels increased. Alignment with core knowledge and competencies for each role is essential and to be mapped across the various roles for consistency, with additional training modules matching the specific roles (e.g. for LAA (for friable), supervisors (friable and non friable)).

Q12. Are there any other issues regarding the definition and requirements of competent persons for asbestos-related tasks that should be considered? Please provide information and reasons to support your response.

Regarding an independent person: Clause 473 (2) (a) and (b) requires an independent LAA or competent person to carry out clearance inspections. Clause 475 (1) and (2) requires an independent LAA or competent person to carry out air monitoring. As per Section 5 definitions: independent, in relation to clearance inspections and air monitoring under Chapter 8, means: (a) not involved in the removal of the asbestos; and (b) not involved in a business or undertaking involved in the removal of the asbestos, in relation to which the inspection or monitoring is conducted. It's worth considering updating the definition of 'independent'. It is common for asbestos removal contractors to engage LAAs directly. Our members report that on occasions clearance inspections are passed by a LAA which would not be passed by a truly independent LAA. True independence requires the LAA to be commercially separated from the asbestos removal contractor and not incentivised to provide a clearance due to cost related pressures on the removal contractor. Therefore, persons conducting clearance inspections and air monitoring (i.e. the LAA) should always be employed by the client/PCBU, rather than the removal contractor and the requirement for independence, which should be relatively easy to audit, should be enforced e.g. through modification to the notification process to SafeWork NSW confirming that the LAA is not directly employed or directly contracted by the removal contractor.

Q13. Is there any other additional feedback you would like to provide?

not answered

Q14. Please upload your submission document or any supporting information to your submission here (optional)

not answered

Q15. Terms and conditions

I have read and understand the Engage terms and conditions (<https://engage.swa.gov.au/terms>) for making this submission.
