

# **Improving the Model Work Health and Safety Laws**

## **Response to the Issues Paper and Regulations Impact Statement**

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Senator the Hon. Eric Abetz  
Minister for Employment  
Leader of the Government in the Senate  
Parliament House  
CANBERRA ACT 2600

**Re: NECA response to Improving WH&S laws Issues Paper and Regulation Impact Statement**

Dear Minister Abetz,

NECA welcomes the opportunity to provide recommendations and input into the Improving the model Work Health and Safety laws issues paper and Regulation Impact Statement, following the agreement reached at the 37<sup>th</sup> Council of Australian Governments (COAG) meeting on 2 May 2014 to investigate options to reduce red tape within the model Work Health and Safety (WHS) laws.

The National Electrical and Communications Association (NECA) is the peak industry body for Australia's electrical and communications contracting industry that employs more than 145,000 workers with an annual turnover in excess of \$23 Billion. NECA's membership consists of more than 4,000 businesses across Australia that sits within our state based chapters and we play a significant role in the training sector, maintaining responsibility for the employment, training and skilling of more than 4,000 current and future electricians and contractors through our Group Training and Registered Training Organisations.

NECA, through its previous response to *the Senate Inquiry into the Safety, Rehabilitation and Compensation Legislation Amendment Bill 2014* has previously called for a reduction in red tape burdens and the removal of overlapping legislation through the adoption of a fully harmonised WHS model inclusive of all States and Territories.

Our response to this issues paper notes that Federal, State and Territory Ministers with WHS responsibilities are seeking recommendations to improve the current framework through the reduction of red tape, prior to a full review of WHS laws that are scheduled for 2016.

The feedback received from NECA's members suggests that the Government should consider and focus upon four critical areas of importance for our industry:

- Electrical Safety
- Mandatory Audiometric Testing
- Emergency Plans
- Workplace Right of Entry

## **Electrical Safety**

As the peak industry body representing the electrical and communications contracting industry, NECA takes the issue of electrical safety very seriously and our development of the Does it Comply? (to Australian Standards) campaign to stamp out the sale and distribution of faulty and non-compliant parts and products is a testament to this focus.

The model WHS regulations highlight requirements for the tagging and testing of electrical equipment in addition to the fitting of a Residual Current Device (RCD) in more dangerous working environments so that a person with management or control of a workplace takes reasonable steps to ensure that electrical risk is minimised. A record of this testing is also required under this regulation.

NECA argues that testing and tagging and RCD are not mutually exclusive and help to control differing hazards and risks. In certain circumstances, an RCD could be compromised by factors such as corrosion, aging installations and local environmental factors.

**Testing and tagging is critical to the safety of electrical workers and NECA argues for the retention of this section of the regulation.**

## **Mandatory Audiometric Testing**

A requirement exists within the regulations for the person conducting or undertaking the business (PCBU) to ensure that mandatory audiometric testing is conducted for each worker within three months of the commencement of employment and at least every two years thereafter.

NECA argues that mandatory audiometric testing fails to improve workplace health and safety standards and is a costly impediment upon business. As a pass/fail examination only, it is unable to categorically prove the source and likelihood of hearing loss and contains practical compliance difficulties such as a 16 hour quiet time period prior to testing. Workers Compensation could unreasonably be claimed through this requirement.

Queensland has already removed the requirement for mandatory audiometric testing from its WHS legislation and **NECA strongly argues for the removal of this requirement from the model WHS laws to reduce red tape and burdens upon electrical contractors.**

## **Emergency Plans**

The model WHS regulations require a PCBU to develop onsite emergency plans across each workplace or construction project that includes emergency procedures, testing of these procedures including its frequency and provide training and instruction to relevant workers for implementation.

Whilst NECA strongly supports recommendations that strengthen workplace health and safety standards, we also recognise the significant cost burdens for small businesses to comply with this regulation and we remain concerned about the inconsistencies for contractors to establish emergency plans across multiple worksites and jurisdictions.

The burden for small businesses could be reduced through the development and implementation of a more generic declaration across multiple sites to provide a strong and effective emergency response procedure without compromising workplace health and safety standards.

**NECA believes such a procedure would avoid duplication and promote greater consistency across workplace sites, particularly where subcontractors are involved.**

## **Workplace Right of Entry**

The model WHS laws allow the permit holder to give notice of entry and advice upon the suspected contravention as soon as practicable after entering the workplace. A permit holder may enter the workplace to enquire about suspected WHS contraventions, inspect employee records and consult and advise workers as long as there is “reasonable suspicion” of a contravention.

Workplace right of entry for suspected contravention varies across Australia with some states following the model WHS laws whilst others utilise their own legislation or have chosen to make their own legislative variations.

Queensland’s variation of workplace entry provisions were adopted following roundtable discussions with unions and employers following feedback that right of entry provisions were open to abuse. A subsequent parliamentary inquiry established that some permit holders were failing to provide adequate reasons for workplace entry and that some employers felt intimidated to exercise the existing safeguard provisions that prevent misuse.

Subsequently, the Queensland Government inserted a notice requirement into its WHS legislation for a minimum of 24 hour’s notice and a maximum of 14 days prior to entry for

workplace contravention, aligning its legislation with the Fair Work Act and other provisions within the WHS Act such as the inspection and copying of employee records.

**NECA supports the Queensland amendment to support a notice of entry requirement and argues for its adoption into the model WHS laws.** This alignment would reduce red tape for business and regulators through fewer disputes between permit holders and the PCBU and by allowing more time to respond to the identified health and safety contravention.

On behalf of our industry, NECA urges your Government to consider legislative change in the areas of Mandatory Audiometric Testing, Emergency Plans and Workplace Right of Entry whilst retaining those critical regulations specific to the testing and tagging of electrical equipment.

Senator, again I appreciate the opportunity to present feedback and I look forward to providing future recommendations to the Government to improve the model WHS laws.

**Yours sincerely**

A handwritten signature in black ink, appearing to read 'S. Manickam', with a horizontal line drawn underneath it.

**Suresh Manickam**  
**Chief Executive Officer**