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Dear Ms Boland

### **Review of the health and air monitoring requirements for hazardous chemicals**

The Australian Small Business and Family Enterprise Ombudsman (ASBFEO) welcomes the opportunity to make a submission to the Safe Work Australia (SWA) consultation on the review of health and air monitoring requirements for hazardous chemicals.

As indicated in SWA's 2026 Worker Exposure Survey (AWES), exposure to workplace chemical hazards is not evenly distributed across the workforce. The survey found that, while 68% of workers reported probable exposure to at least one assessed agent, the type and prevalence of exposure varies across industries with risks concentrated in construction, manufacturing and wholesale trade, industries which have a high prevalence of small businesses.<sup>1</sup>

These findings have implications for the design of health and air monitoring requirements for hazardous chemicals. Regulatory obligations should be proportionate to the level of risk posed by specific chemicals and focused on the industries and work activities where exposure is most likely to impact worker health.

The ASBFEO supports Work Health and Safety (WHS) requirements that protect workers from harm and reflect contemporary scientific and medical evidence. Where exposure risks can be effectively managed through existing requirements, a focus on improving small business awareness, understanding and the capacity to achieve compliance will deliver better safety outcomes than introducing additional obligations. Any reforms to current requirements must be risk-based and proportionate, and capable of being implemented by small businesses with limited administrative resources.

### **Understanding the constraints of small businesses**

For many small businesses, the issue is not an unwillingness to comply with WHS obligations. It is that they lack the capacity to know, understand and implement measures that meet the requirements of what are a complex set of regulations.

Unlike larger organisations, small businesses often lack dedicated WHS, legal and compliance expertise to understand complex WHS requirements. With regard to workplace health and air monitoring they can face difficulties interpreting technical terms and knowing when monitoring is required and what information must be provided to medical professionals or regulators.

In some circumstances, the small business may need to engage the expertise of an occupational hygienist, registered medical practitioner or other suitably qualified professional. However, the person conducting a business or undertaking (PCBU) may not have capacity to determine when

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<sup>1</sup> Safe Work Australia (SWA), Review of health and air monitoring requirements for hazardous chemicals – Consultation paper, SWA, August 2026, p 10

specialist advice is required or even know that there is a requirement to engage these professionals.

The cost and availability of specialist advice can also be a barrier to small business compliance, particularly for businesses in regional and remote areas where suitable providers may be limited and the cost of engagement higher. For example, regional and remote businesses may experience delays in engaging monitoring services where they are not available locally. Such barriers make it more difficult for these businesses to identify potential exposure risks, undertake appropriate monitoring activities and demonstrate compliance with WHS requirements.

Research highlights the broader challenges small businesses face in complying with WHS obligations. Jeffries et al found that small construction businesses often struggle to comply with regulations due to limited resources, difficulties implementing formal WHS management systems and lower awareness of regulatory requirements and changes. Research also finds that WHS regulations and compliance approaches are typically designed with larger businesses in mind and do not adequately reflect the operating realities of small business.<sup>2</sup>

The ASBFEO encourages SWA to take into account the constraints small businesses face when considering reforms to health and air monitoring requirements for hazardous chemicals, including any changes to definitions, monitoring thresholds and reporting requirements. To improve small business awareness and understanding of WHS requirements, SWA should provide clear guidance and leverage established industry and community networks to deliver practical training, education and workplace resources.

Investment in well designed (and communicated) regulatory education to prevent non-compliance before it occurs, or to quickly remedy it when it does, will have a more material impact on overall compliance and reduction of risks to workers than additional regulatory burdens.

### **Clarifying terms and definitions**

Regulation 368 of the model WHS Regulations requires PCBUs to provide health monitoring where workers undertake ongoing work involving hazardous chemicals, and there is a significant risk to health arising from that exposure. Health monitoring forms part of the broader obligation to identify and manage risks associated with hazardous chemicals and should operate consistently with the other risk management duties under the model Regulations.

To determine whether health monitoring is required PCBUs must interpret several terms, including ‘ongoing work’, ‘significant risk’, ‘risk to health’, ‘valid techniques’ and ‘biological exposure standards’. The consultation paper notes that several of these terms are not well understood and interpreted inconsistently, creating uncertainty about when health monitoring obligations arise and how compliance should be demonstrated.

The ASBFEO supports clarifying these terms to help small businesses more readily interpret when health monitoring requirements arise and focus their efforts on managing material workplace risks. Requirements should remain risk-based and proportionate to the likelihood and severity of harm, with supporting guidance that clearly explains when monitoring is required and how businesses can meet their obligations in practice. Terms should also be consistently applied across all WHS regulations, accompanied by guidance that helps small businesses interpret and understand the actions needed to manage risks to their employees.

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<sup>2</sup> Jeffries, Marcus A/Prof.; Newaz, Tanvi Dr; Ginigaddara, Buddhini Dr.; Egbelakin, Temitope Prof.; Sunindijo, Riza Yosia A/Prof.; and Tang, Liyaning Maggie Dr, ‘Identifying barriers & enablers to improve WHS outcomes in Australian small construction businesses’ CIB Conferences, vol. 1, chapter 1, 19 May 2025, accessed 11 August 2026.

The ASBFEO also supports clarifying technical terms that may be difficult for small businesses to understand and apply. Terms such as ‘valid techniques’ and ‘biological exposure standards’ are technical and likely to require specialist advice to interpret. If PCBUs are expected to determine whether a biological exposure risk exists and whether monitoring is required, they also need clear, practical guidance on where biological exposure standards can be accessed, how they should be interpreted, and how they apply in practical workplace settings.

Further guidance should also be provided on the operation of Schedule 14, including the significance of SWA publishing a health monitoring guide for a particular substance, and the circumstances in which businesses may need to undertake air and health monitoring for chemicals not listed in Schedule 14. Guidance on these matters would assist PCBUs to make informed decisions about monitoring requirements and promote more consistent application of the Regulations.

In clarifying the term ‘ongoing work’, SWA should retain the original intent to exclude once-off or incidental exposures, so health monitoring remains focused on ongoing or repeated exposure to hazardous chemicals that creates a risk to health. Maintaining this focus will align the term with the requirement to manage risks from airborne contaminants under regulations 49 and 50 of the model WHS Regulations.

Collectively, these changes would improve clarity and consistency, helping PCBUs understand and comply with their obligations under Regulation 368 in a practical and proportionate manner.

### **Health monitoring and reporting**

WHS regulators have indicated that they receive a relatively low volume of health monitoring reports. This may in part reflect the challenges many small businesses face in understanding when health monitoring is required and what information should be collected and reported. With limited administrative resources and a lack of WHS expertise, small businesses may not have the systems and processes to identify, record and communicate exposure information in a way that supports effective health monitoring reporting.

Effective health monitoring depends on medical practitioners receiving information about a worker's actual or potential exposure to hazardous chemicals. Information about the work performed, chemicals involved, duration of exposure and existing control measures can be critical in assessing workplace risks and interpreting monitoring results.

To ensure that registered medical practitioners receive the information they need to make a meaningful assessment of worker health risk, SWA should make it as straightforward as possible for PCBUs to collect and report critical information. Standardised templates, checklists and practical guidance could help businesses capture the necessary information without requiring specialist knowledge. Where appropriate, these tools could be incorporated into (or used alongside) existing risk-management documents such as Job Safety Analyses (JSAs), Safe Work Method Statements (SWMS) and hazardous chemical risk assessments.

Additionally, the ASBFEO supports SWA's proposal to amend the Regulations to adopt Western Australia's approach to health monitoring, which includes lowering the reporting threshold and requiring registered medical practitioners to submit reports directly to regulators. Harmonised, good practice reporting thresholds and processes would improve the comparability of information collected by regulators and improve visibility of harmful exposures.

### **Air monitoring**

Stakeholder feedback to SWA has raised concerns about the uncertainty of when air monitoring is required, how a PCBU can establish ‘certainty on reasonable grounds’, and what evidence or methodologies may be relied upon to determine whether exposure standards are being exceeded.

Given the technical nature of these terms, small businesses may struggle to understand and interpret their meaning without specialist advice. A small business may need to engage an occupational hygienist or other suitably qualified professionals to determine whether air monitoring is required, assess compliance with exposure standards and advise on appropriate monitoring methods, the cost of which may be significant and therefore create a barrier to compliance.

To address this barrier the ASBFEO supports the development of clear guidance on how regulations 49 and 50 should be applied within the broader WHS framework. Guidance should cover the circumstances in which air monitoring is required, the evidence that may be relied upon to establish certainty on reasonable grounds, and how compliance with exposure standards can be demonstrated.

Small businesses should not assume that engaging an occupational hygienist is necessary whenever there is uncertainty regarding exposure risks, so guidance should also distinguish between circumstances where it is clear air monitoring is required and where a PCBU may need specialist advice to determine whether the requirement has been triggered. It should explain the preliminary risk assessment a PCBU can undertake, the types of evidence that may be relied upon and the circumstances in which specialist advice is appropriate.

Clear guidance would help small businesses implement a risk-based approach to exposure management while maintaining appropriate worker health and safety protections. Without this guidance, the cost and complexity of compliance may discourage some small businesses from undertaking appropriate monitoring activities or seeking expert advice. This creates a risk that workplace exposure hazards are not identified early, exposure standards are inadvertently exceeded, or control measures are not operating as intended.

In addition, SWA and other WHS regulators should develop practical tools for small businesses, including decision trees, worked examples, industry-specific guidance and case studies. For industries that regularly use hazardous chemicals, consideration should be given to incorporating air monitoring triggers and risk assessment processes into JSAs, SWMS or similar risk management tools. This would provide PCBUs with a practical framework for identifying potential exposure risks, determining when specialist advice may be required and implementing appropriate monitoring and control measures.

SWA should also provide clearer guidance on how air monitoring interacts with broader hazardous chemical risk-management obligations, including the relationship between exposure standards, control measures and health monitoring requirements.

### **Guidance and education should be delivered through trusted channels**

In addition to providing clear, practical guidance and tools, SWA should work with state and territory WHS regulators to deliver targeted education and awareness campaigns for industries where workers are at a greater risk of exposure to hazardous chemicals. Their focus should be on helping PCBUs understand their obligations under the hazardous chemicals framework and broader WHS responsibilities, while building their capability to identify exposure risks, implement appropriate control measures, and make informed decisions about health and air monitoring.

Guidance will only be effective if it reaches the businesses and workers most likely to be exposed to hazardous chemicals. In the ASBFEO's experience, small businesses are more likely to engage with information if it is in an accessible form disseminated through trusted industry and professional networks.

To maximise awareness and uptake, SWA should partner with organisations that regularly engage with small businesses including:

- industry associations
- local chambers of commerce
- council-run business networks
- multicultural chambers of commerce
- trusted advisers such as accountants, business mentors and WHS consultants.

Clear, practical guidance and tools disseminated through these channels will help raise awareness of hazardous chemical risks, build capability to manage those risks and support small businesses to comply with their WHS obligations.

If you require any further information, please do not hesitate to contact us via email at [advocacy@asbfeo.gov.au](mailto:advocacy@asbfeo.gov.au).

Yours sincerely



**Lynda McAlary-Smith**

Australian Small Business and Family Enterprise Ombudsman