

Attachment

MINING & ENERGY UNION



8 December 2022

For the attention of:
Office of Health Protection and Response Operations
Chief Medical Officer Group
Australian Government Department of Health and Aged Care

Emailed: dust@health.gov.au

Re: Invitation to comment – Draft National Occupational Respiratory Disease Registry Bill package.

Thank you for the invitation to provide comment on the draft National Occupational Respiratory Disease Registry Bills and proposed contents of supporting legislative instruments.

The Mining and Energy Union (MEU) is the principal union representing workers in the coal mining industry, with more than 21,000 members working across the mining and energy industries in Australia, including in mining, power generation, and coal ports.

Exposure to respiratory disease-causing agents is a major health and safety risk in our members' workplaces. Exposure to coal dust can lead to the development of coal workers' pneumoconiosis (commonly known as black lung disease), progressive massive fibrosis, and chronic obstructive pulmonary disease. The re-emergence of black lung disease among Australian coal workers in 2015, after the decades-long belief that it had been eradicated in Australia, underscores the urgency and importance of getting dust disease policy right. In the course of their work, our members are also at risk of exposure to silica dust, diesel particulates, and welding fumes and particulates, among other respirable dusts. Monitoring of occupational respiratory diseases, such as through a national registry, is critical to understanding the nature, incidence, and prevalence of occupational respiratory diseases and to the development of improved preventative measures.

The MEU acknowledges the draft bill package as action towards implementing the recommendations of the National Dust Disease Taskforce, which included the prompt operationalisation of the National Occupational Respiratory Disease Registry (NORDR). We agree with and support the comments submitted by the ACTU. We wish to provide additional feedback on some elements of the draft bill package, as outlined below.

All occupational respiratory diseases should be classed as 'prescribed occupational respiratory diseases' in the rules

In the draft proposed legislative instruments, it is proposed that silicosis initially be the only prescribed occupational respiratory disease, with information on non-prescribed occupational respiratory diseases included in the NORDR on a voluntary basis only. Though 'it is anticipated' that the types of diseases classed as prescribed occupational respiratory diseases will expand 'over time', there is no indication of the how far into the future this expansion would take place.

The MEU believes that all occupational respiratory diseases should be prescribed, and therefore subjected to mandatory reporting requirements, from the commencement of the Registry. We see no reason to delay the mandatory inclusion of information relating to any occupational respiratory disease on the NORDR. A

narrow initial focus on silicosis would be a significant missed opportunity to establish an accurate picture of the incidence and prevalence of other occupational respiratory diseases across Australia. While we welcome that a decision was made to allow for information relating to a wide range of non-prescribed occupational respiratory diseases to be included on the Registry, data will necessarily be incomplete without mandatory reporting, limiting the ability of the NORDR to fulfil its purposes.

Existing state registers of occupational dust diseases, including the NSW Dust Diseases Register and Queensland's Notifiable Dust Lung Disease Register, take a more expansive approach to mandatory monitoring of occupational respiratory diseases, beyond silicosis. This broader remit should be replicated at a national level through the NORDR. Comprehensive data on diagnoses of occupational respiratory diseases drives improved responses. For example, trends in coal workers' pneumoconiosis identified in Queensland data facilitated a series of reforms to improve prevention and surveillance of the disease in that state, including free health checks for retiring and former workers, new clinical pathway guidelines, new training courses for doctors and radiologists, and provision of information to workers, employers, and stakeholders in the industry. For the NORDR to be similarly ambitious, it must not limit mandatory reporting to silicosis. All workers exposed to any kind of respiratory disease-causing agent are equally deserving of the policy improvements that can be driven by comprehensive surveillance and data.

The accuracy and effectiveness of the NORDR will be limited by the lack of stringent monitoring of exposure to respirable dust

High-quality monitoring and testing programs for occupational respiratory diseases require stringent monitoring and sampling of respirable dust in workplaces. If the NORDR is to be successful, it must go hand-in-hand with a monitoring program for dust exposure at workplaces. Without this surveillance, it is impossible to know the baseline levels of dust exposure workers are facing day-to-day, and the cumulative impact it has on their health.

Monitoring of dust exposures across an individual's entire work history facilitates more accurate diagnoses of occupational respiratory diseases by guarding against the misattribution of conditions to 'non-work-related' factors. Surveillance through dust sampling at workplaces is also a critical element in assessing the effectiveness of controls for dust suppression and mitigation, and the suitability of prescribed exposure limits for preventing the development of diseases.

If the minimum notification information in the proposed determinations is adopted, and mandatory reporting of exposure details is limited to workplaces of 'last exposure' and 'main exposure', stringent surveillance of dust exposure will be necessary to correctly identify those workplaces. Nonetheless, the MEU holds serious reservations about this element of the proposed determinations, which we outline next.

Limiting mandatory reporting of exposure details to 'last exposure' and 'main exposure' overlooks the cumulative impact of exposures across individuals' work history, and will lead to an incomplete Registry

We are concerned that the proposed minimum notification information limits the reporting of exposure details to 'last exposure' and 'main exposure.' Occupational respiratory diseases generally do not develop from single instances of exposure. It is the accumulation of exposures over time which leads a worker developing a disease. The information in the Registry will necessarily be incomplete if it does not capture all sites of exposure. If minimum notification information is limited to, at most, the details of two worksites where exposure has occurred, there is a strong possibility that multiple other worksites with very poor conditions will not get recorded. If individuals have worked across multiple industries, a more detailed exposure history could prove particularly important. Without the full history of an individual worker's occupational exposure, the Registry may not be an accurate record, and comprehensive analyses of risk factors and exposures will not be possible based on its information.

Furthermore, a focus on 'main' and 'last' exposures to respirable dust discourages recognition of the full impact of cumulative occupational exposures on workers' health. This could promote a narrower approach to identifying work-related causes of respiratory diseases, potentially making it more likely for diagnoses to be wrongly attributed to lifestyle factors which may be from many years in the past.

The bill package does not address barriers to obtaining accurate diagnoses of occupational respiratory diseases

For the NORDR to fulfil its objectives, it requires accurate diagnoses of occupational respiratory diseases. As it stands, there are numerous barriers in the way of individuals receiving accurate diagnoses of respiratory conditions they have developed due to workplace exposures. These barriers must be addressed if the NORDR is to show an accurate picture of occupational respiratory diseases in Australia.

Currently, specific training in screening for occupational dust lung diseases for radiologists is not required by the Royal Australian and New Zealand College of Radiologists. Our experience in Queensland is that, where high-resolution CT scanning is used a diagnostic tool, they are often read by practitioners without appropriate training to detect occupational respiratory diseases. Also in Queensland, where it is a requirement for workers to be screened by radiologists who are approved B Readers (meaning they examine chest x-rays to the International Labour Organization International Classification of Radiographs of Pneumoconioses), final decisions can be overridden by employer-appointed physicians.

The misattribution of occupational respiratory diseases to non-work-related factors is something we frequently see across our membership, and this stands in the way of an accurate registry. It also lends weight to the importance of robust dust monitoring regimes and taking a whole-of-life approach to workplace exposures, as outlined earlier in our comments. Without a comprehensive understanding of an individual's exposure to respirable dusts over the course of their working lives, it is easier for conditions to be misattributed to lifestyle factors. This is particularly likely where workers develop chronic obstructive pulmonary disease, which can be easily misattributed to smoking.

Researchers should be able to access information identifying the most recent workplace where an individual was exposed to a respiratory disease-causing agent

The NORDR has the potential to become an important resource for research into the causes, incidence, prevalence, nature, extent, and trends of occupational respiratory diseases. The MEU therefore welcomes provisions of the draft bills which allow for protected information on the Registry to be used for the purposes of research relating to occupational respiratory diseases.

We believe that the restriction on the disclosure of information which could identify the most recent workplace where an individual was exposed to a respiratory disease-causing agent, provided for in 21.3.a of the draft NORDR Bill, could limit important research insights. While, presumably, access to information about individuals' industry of work and occupation are not to be similarly restricted under 21.3 of the draft NORDR Bill, there is significant variety in working environments (and standards of controls for dust exposure) within industries and occupation types, and full access to workplace data for research would enable greater understanding of specific risk factors for exposure to respiratory disease-causing agents.

Furthermore, research prepared for the National Dust Disease Taskforce¹ found that many sufferers of occupational respiratory diseases reported poor working conditions and a lack of enforcement of safety measures, with workplace cultures acting to discourage workers from raising concerns. Workers in that study reported fears of adverse action if they were to engage with colleagues or unions about dust diseases,

¹ *Dust Disease Research Update: Final Report*, prepared for the Department of Health, National Dust Disease Taskforce by Quantum Market Research, May 2021.

particularly if they were contract or casual employees lacking permanency in their jobs.² Full access to workplace data would enable further interrogation of the relationship between employment practices, workplace cultures, and the management of exposure to respiratory disease-causing agents.

The MEU is deeply committed to the health and safety of workers in our industries and we are eager to ensure that any new policy settings facilitate improved prevention and understanding of occupational respiratory diseases. We encourage you to contact us if there is any further information we may be able to provide to support the consultation process for the draft bill package.

Regards,

Grahame Kelly
General Secretary

² Ibid., p. 29.