



GUIDE FOR APPLICANTS FOR LEAD NOTIFICATIONS

SAFework NSW
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Information on the latest laws can be checked by visiting the NSW legislation website www.legislation.nsw.gov.au

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INTRODUCTION

The *Work Health and Safety Regulation 2017* (WHS Regulation) provides for the notification to SafeWork NSW (the Regulator) of:

- lead risk work
- the removal of a worker from lead risk work.

A person conducting a business or undertaking at a workplace is required to ensure, so far as reasonably practicable, the health and safety of workers and others. Notifications of lead risk work and the removal of workers from lead risk work provides risk based information to the Regulator so it can apply resources and target compliance and enforcement actions to areas of greatest risk to health and safety.

SCOPE

Definitions

Lead risk work means work carried out in a lead process that is likely to cause the blood level of a worker carrying out the work to be more than:

- for a female of reproductive capacity – 10 µg/dL (0.48 µmol/L), or
- in any other case – 30 µg/dL (1.45 µmol/L).

(Clause 394 of the WHS Regulation.)

The meaning of a lead process is set out in Clause 392 of the WHS Regulation. 'Lead' is defined in Section 5 of the *Work Health and Safety Act 2011* (WHS Act) as meaning 'lead metal, lead alloys, inorganic lead compounds, and lead salts of organic kinds'.

Assessment

A person conducting a business or undertaking at a workplace must assess each lead process carried out by the business or undertaking to determine if lead risk work is carried out in the process (Clause 402(1) of the WHS Regulation).

If the person conducting a business or undertaking at a workplace is unable to determine whether lead risk work is carried out in a lead process, the process is taken to include lead risk work until the person determines that lead risk work is not carried out in the process (Clause 402 (4) of the WHS Regulation).

The Regulator can decide that a process to be carried out at a workplace is a lead process. A decision that a process is a lead process is a reviewable decision (Clause 393 (1) of the WHS Regulation).

Lead risk work

Notification is required when lead risk work is undertaken by the person conducting a business or undertaking at a workplace after determining that the work is lead risk work. (Clause 403 (1) of the WHS Regulation), and

Where work carried out to rescue a person or provide first aid to a person is determined by the emergency services organisation to be lead risk work (Clause 403 (4) of the WHS Regulation).

Removal of worker from lead risk work

Part 7.2 of the WHS Regulation impose obligations on the person conducting a business or undertaking to ensure health monitoring is provided to workers both before and after commencing lead risk work.

Notification is required if a worker is removed from carrying out lead risk work following health monitoring where:

- Biological monitoring shows the worker's blood lead level is, or is more than:
 - 50 µg/dL (2.42 µmol/L) for females not of reproductive capacity and males, or
 - 20 µg/dL (0.97 µmol/L) for females of reproductive capacity, or
 - 15 µg/dL (0.72 µmol/L) for females who are pregnant or breastfeeding, or
- The registered medical practitioner recommends that the worker be removed from carrying out lead risk work, or
- There is an indication that a risk control measure has failed and as a result, the worker's blood lead level is likely to reach the relevant level for the worker to be removed from carrying out lead risk work.

(Clause 415 of the WHS Regulation.)

Where a worker is removed from lead risk work due to increased blood lead levels the person conducting the business or undertaking responsible for health monitoring must send a copy of the health monitoring report to the Regulator. Clause 413 of the WHS Regulation. For more information about health monitoring refer to the *Guide for applicants for health monitoring and notification of adverse health monitoring report* (catalogue no. SW08113).

WHO MUST NOTIFY

A person conducting a business or undertaking at a workplace that has determined or is unable to determine that the work at the workplace is lead risk work (Clause 403 (1) and 402 (4) of the WHS Regulation).

A person conducting a business or undertaking, who has removed a worker from carrying out lead risk work following health monitoring results (Clause 415 of the WHS Regulation).

‘Person conducting a business or undertaking’ is defined in section 5 of the WHS Act. A person conducting a business or undertaking may be an individual, a body corporate, a government agency, a partnership or an unincorporated association.

An emergency service organisation where in the course of rescuing a person or providing first aid to a person, determines that the work is lead risk work (Clause 403 (4) of the WHS Regulation).

WHEN TO NOTIFY

Lead risk work

Notification to the Regulator is required within seven days of the determination that the work is lead risk work (Clause 403 (1) of the WHS Regulation) or if a determination is unable to be made (Clause 402 (4) of the WHS Regulation).

Notification to the Regulator by an emergency service organisation is required as soon as practicable after determining that the work is lead risk work (Clause (WHS Regulation 403 (4)).

Notification is required to be made to the Regulator on a day that is not a Saturday, Sunday, public holiday or bank holiday.

Removal of worker from lead risk work

Notification to the Regulator is required as soon as practicable if a worker is removed from carrying out lead risk work (Clause 415 (2) of the WHS Regulation).

HOW TO NOTIFY

Notifications are required to be made to the WHS Regulator in the state or territory or the Commonwealth in which the workplace that carries out the lead risk work is located.

To notify of lead risk work complete the *Notification of lead risk work* (NWL) form (catalogue no. SW08127).

To notify of a worker removed from lead risk work complete the *Notification of a worker removed from lead risk work* (NRW) form (catalogue no. SW08128).

These forms are available on the SafeWork NSW website. Lodgement instructions are on the forms.

Where there is a change to the information provided in a notification of lead risk work the person conducting the business or undertaking must advise the *Regulator using the Notification of lead risk work* (NWL) form (catalogue no. SW08127).

FEES

There is no fee for a notification of lead risk work or the notification of the removal of a worker from lead risk work.

WHAT INFORMATION DOES THE REGULATOR REQUIRE

Lead risk work

The Regulator requires written notification of lead risk work to include the following information:

- Whether the notification is for a new notification or for an amendment (for change of details).
- Name and contact details of the person conducting the business or undertaking including trading name, if applicable and ABN or the name and contact details of the emergency service organisation.
- Details of the lead process being carried out.
- Address of the workplace at which the lead risk work is being carried out.
- Risk control measures to minimise worker exposure.
- Date of commencement of the lead risk work and proposed completion date if the work is short term such as abrasive blasting of lead paint from a structure.
- Date when the workers carrying out the lead risk work were last tested for blood lead levels and the results of those tests.
- Name of the registered medical practitioner who conducted medical examinations and biological monitoring of the workers carrying out lead risk work.
- Address and contact details of the medical practitioner's practice.

Worker removed from lead risk work

The Regulator requires written notification of the removal of a worker from lead risk work to include the following information:

- Name and contact details of the person conducting the business or undertaking including trading name, if applicable and ABN.
- The date on which the lead risk work notification was made. If a notification of the lead risk work was not made the information required for lead risk work notifications (refer above).

- Reason for removal of the worker: If removal was the result of increased blood lead levels the provision of the worker's blood lead results, age, sex and submission of a copy of the health monitoring report for the worker. If removal was at the recommendation of a registered medical practitioner, a brief description of the reason; if removal was due to the failure of a risk control measure, a description of the failure and the new risk control measure(s).

OBLIGATIONS

Changes to details

The person conducting the business or undertaking at a workplace where the work is lead risk work must advise the Regulator in writing of any changes to the information provided in a notification of lead risk work before the change or as soon as reasonably practicable after becoming aware of the change (Clause 404 (1) of the WHS Regulation).

Copy of notice

The person conducting the business or undertaking at a workplace where lead risk work is carried out must:

- Keep a copy of the notice or changes to the notice given to the Regulator for the period that the lead risk work is carried out at the workplace
- Ensure a copy of the notice or changes to the notice are readily accessible to a worker who is likely to be exposed to lead, and the worker's health and safety representative.

(Clause 404 (2) of the WHS Regulation.)

Health monitoring

A person conducting a business or undertaking at a workplace that carries out lead risk work must arrange for biological monitoring of each worker who carries out lead risk work at the times prescribed in Clause 407 (1) of the WHS Regulation.

The person conducting a business or undertaking at a workplace that carries out lead risk work must increase the frequency of biological monitoring of a worker if the activity is likely to significantly change the nature or increase the duration or the frequency of the workers' lead exposure (Clause 407 (2) of the WHS Regulation).

APPLICATION FOR REVIEW OF DECISION

The table in Clause 676 sets out decisions that are reviewable (reviewable decisions) and who is eligible (eligible person) to apply for the review of a reviewable decision.

The person conducting a business or undertaking that carries out the lead process and/or a worker who is affected by the decision are eligible persons to request a review of a decision made by the Regulator that a process is a lead process (Clause 393 (1) of the WHS Regulation).

The person conducting a business or undertaking that carries out the lead process and/or a worker whose interests are affected by the decision are eligible persons to request a review of the determination made by the Regulator of a different frequency for biological monitoring of workers at a workplace or a class of workers, carrying out lead risk work (Clause 407 (3) of the WHS Regulation).

INTERNAL REVIEW

An application for internal review allows the Regulator's decision to be reviewed and possibly changed by a person who was not involved in the original decision. A written application for the internal review of a reviewable decision is made using the application form provided by the Regulator. The application must be lodged within 28 days of the day on which the decision first came to the eligible person's notice or such longer period as the Regulator allows (Clause 678 (1) of the WHS Regulation).

The internal reviewer may:

- confirm or vary the reviewable decision, or
- set aside the reviewable decision and substitute another decision that the internal reviewer considers appropriate.

(Clause 680 (2) of the WHS Regulation.)

If the reviewable decision is not varied or set aside within the 14 day period the internal decision is taken to have been confirmed (Clause 680 (6) of the WHS Regulation).

The Regulator will give the applicant written notice of the decision on the internal review and reasons for the decision within 14 days of making the decision (Clause 681 of the WHS Regulation).

An application for an internal review does not affect the operation of the original decision or prevent the taking of any lawful action to implement or enforce the decision, though once the decision on internal review is made if a new decision is substituted then that new decision takes effect (Clause 682 of the WHS Regulation).

EXTERNAL REVIEW

If the person conducting the business or undertaking (PCBU) that carries out the lead process or the worker affected is not satisfied with the decision on internal review, they can apply to the NSW Civil and Administrative Tribunal (NCAT).

FURTHER INFORMATION

For authorisation enquiries contact SafeWork NSW on 13 10 50 or email sssg.notifications@safework.nsw.gov.au

LEGISLATION

The WHS Regulation is located on the SafeWork NSW website www.safework.nsw.gov.au

LIST OF JURISDICTION CONTACTS

Jurisdiction	Name of regulator	Telephone	Website
New South Wales	SafeWork NSW	13 10 50	www.safework.nsw.gov.au
Victoria	WorkSafe Victoria	1800 136 089	www.worksafe.vic.gov.au
Queensland	Workplace Health and Safety Qld	1300 369 915	www.justice.qld.gov.au
South Australia	SafeWork SA	1300 365 255	www.safework.sa.gov.au
Western Australia	WorkSafe WA	1300 307 877	www.worksafe.wa.gov.au
Australian Capital Territory	WorkSafe ACT	02 6207 3000	www.worksafety.act.gov.au
Tasmania	Workplace Standards TAS	1300 366 322 (inside Tasmania) 03 62337657 (outside Tasmania)	www.worksafe.tas.gov.au
Commonwealth	Comcare	1300 366 979	www.comcare.gov.au
Northern Territory	NT WorkSafe	1800 019 115	www.worksafe.nt.gov.au

