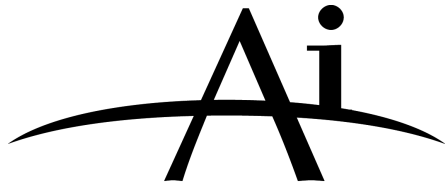


VICTORIA

DRAFT COMPLIANCE CODES

**COMMENTS RELATING TO DRAFT
DOCUMENTS RELEASED FOR PUBLIC
COMMENT ON 28 MARCH 2008**



**AUSTRALIAN INDUSTRY
GROUP**

APRIL 2008

INTRODUCTION

The Australian Industry Group (Ai Group) is Australia's leading industry organisation representing 10,000 employers in manufacturing, construction, automotive, telecommunications, IT & call centres, transport, labour hire and other industries. Ai Group's members operate businesses of all sizes throughout Australia and represent a broad and expanding range of sectors. We provide comprehensive advice and assistance to help members run their businesses more effectively and to become more competitive on a domestic and international level.

The views expressed in this submission have been developed through three major avenues:

- views of members expressed through day-to-day contact with them as we provide membership advice, training and consulting services;
- feedback from Ai Group members specifically in relation to this public comment process; and
- the knowledge of Ai Group's OHS Advisers who have extensive experience in the practical application of the OHS Act, regulations, Codes of Practice and related materials.

CONTEXT

On 28 March 2008, WorkSafe Victoria released nine draft Compliance Codes for a four week public comment period. These codes are:

- Workplace amenities and work environment
- Managing asbestos in workplaces
- Removing asbestos in workplaces
- First aid in the workplace
- Confined spaces
- Foundries
- Lead
- Prevention of falls in construction
- Communicating occupational health and safety across languages

In total, the draft codes provide 467 pages of content, with varying levels of technical complexity. This, together with an obvious lack of editing prior to release, has created a particularly difficult task in providing feedback on the documents. Member companies have specifically raised concerns about the short period of time available within which to consider all the issues and make informed comment.

The detail of Ai Group's response is presented in the following format:

- General feedback relevant to all codes; and
- Issues specific to each code.

GENERAL FEEDBACK RELEVANT TO ALL CODES

Purpose and intent of codes

We acknowledge that it is stated in the preamble of each Code that the code is not mandatory. However, much of the feedback received through this review process is concerns from employers and practitioners that the codes are written in such a way as to increase the level of prescription, "prescribing" things that are not currently written in the law.

This concern has been highlighted by the use of the words ***should, could, must, need to***, which are all being interpreted as requiring an employer to do this thing in the prescribed manner

There is some level of inconsistency around the use of these words. It is our understanding that, in some codes the word "needs" was introduced as an alternative to must and should, as it was considered that a compliance code cannot utilise words which imply legal requirements.

However, we have received some feedback that the readers may interpret the words "needs to" as being even stronger than should or must, and employers are concerned about how they will be used, in spite of the stated intent in the preface.

It is recommended that a standard set of words are applied to all codes, and that the legal intent of the words chosen be described in the standard preface to the codes.

The wording should reflect the intent of the compliance code.

Ai Group would be happy to participate in discussions about how this can be achieved consistently across all codes.

Formatting and consistency

It is our understanding that, following public comment, the codes will have a further editorial review to ensure that they are presented in a consistent manner. It is disappointing that this process did not occur prior to the public comment process, as it would have aided the readability of the documents and removed the need to comment on issues that might have been addressed through this editorial process.

The following issues are raised for consideration in the editorial review process.

Introductions

The introduction section of the Codes seems to be an area where there should be some level of consistency. However, a comparison of these sections identifies major inconsistencies, a selection of these are summarised in the table below.

Managing asbestos	Purpose of this compliance code Lengthy outline of consultation requirements
Communicating across languages	Who does this compliance code apply to? (includes the objective of the code) What does the law say? Lengthy outline of consultation requirements (with specific focus on communication across languages), with reference to Appendix C
Amenities and environment	Who does this compliance code apply to? What activity does this compliance code apply to? Objective of this compliance code Health and safety objectives for duty holders What are workplace amenities? Why do employees need amenities? Consultation (very brief, with reference to Appendix B)
Confined spaces	Purpose Background What is a confined space? How to determine whether a space is a confined space Consultation (very brief, with reference to Appendix C)
Falls in construction	Purpose Scope and application Consultation (very brief, with reference to Appendix B)
Lead	What is lead? How does lead get into the body? What are the health effects of lead? Application of the regulations Employers' duties Consultation (very short, with reference to Appendix C) Note: Current formatting makes it unclear where the introduction starts and finishes

It is suggested that the introductions should incorporate:

- A description of the topic, which might incorporate key definitions, such as “what is a confined space”;
- Which regulations or parts of the Act can be satisfied by the compliance code – this is done quite well on page 2 of the draft lead code;
- The brief version of the consultation description, with reference to the Appendix for further information

Appendices

There is a level of inconsistency in relation to Appendices. It is recommended that a standard grouping of Appendices be utilised wherever possible. These might include:

- Appendix A – The compliance framework
- Appendix B – Definitions
- Appendix C – Referenced documents
- Appendix D – Consultation requirements
- Appendix E to XX – Other appendices relevant to the specific topic.

“Incorporated” documents

The workplace’s code includes two appendices for referenced material. Appendix C is entitled “documents adopted by this compliance code” and then states that the following documents “...are incorporated into this compliance code ... they form part of the code”

Other codes include a list of referenced documents, without indicating whether they form part of the code or not, whilst others have no reference list provided.

Comment will be made in detail about the “incorporated” documents in the workplaces code later in this submission.

Ai Group requests feedback on WorkSafe’s official position on the referencing and “adopting” of other documents in the compliance codes.

Definitions

There does not appear to be a standard approach to providing definitions.

- The code for communicating across languages includes definitions of employer, employee, risk and hazard;
- The code for managing asbestos focuses predominantly on definitions that are specifically relevant to asbestos.
- The first aid code includes definitions of a workplace
- The falls codes asks for suggestions on what definitions should be included
- The foundries code attempts to define reasonably practicable (in this circumstance it would be best to refer people to the section 12 guideline)

It is recommended that a decision is made about the standard definitions that need to be included in all codes

COMMENTS THAT ARE SPECIFIC TO INDIVIDUAL DRAFT COMPLIANCE CODES

It is our intention to provide feedback that is brief and concise. For this reason, wherever possible, our comments will be referenced directly to a paragraph number. This feedback is provided in the following sections of our submission

Compliance code – Workplace amenities and work environment

Note: This feedback must be read in conjunction with the general comments made in relation to all codes

Para 2 – It would be helpful if readers could be given a reference point in relation to construction workplaces.

Paras 3 to 8 provide a crucial link between the amenities obligations and the more onerous OHS issues; in para 8 it would be helpful to also refer to other compliance codes.

Para 16 is repetitive of paras 12 and 13, and the Appendix.

Para 34 – It is agreed that employees must have access to drinking water, however, we are concerned about the requirement to “...provide the amenity by ensuring access to public drinking water facilities or bottled water”. Other options to achieve this outcome would be the provision of appropriate containers to allow people to take their own water to the mobile workplace.

Para 44 – It is unclear why the section has selected the options of either “connected to sewer” or compliance with a specific Australian Standard for “waterless composting toilets”. This does not take into account work locations which are connected to septic. Nor does it allow for new technology to be adopted as other environmentally sound options become available. It may be appropriate to include reference to authorised/approved design standards for toilets.

Para 45 – Can be read as being contradictory to para 44; adding a reasonably practicable qualification to para 44 may assist.

Para 46 – It would be helpful to understand where these design standards have come from. Section F2.5 of the Building Code of Australia provides information about the construction of sanitary compartments, and it is not this detailed. The current wording of the last two dot points is not very clear, e.g. does this apply when the other room is a change room; how far is a reasonable distance; what is a separate entrance?

Para 49 – In the case of a person in a mobile situation, it is generally not reasonable to expect the employer to provide “...clear directions on where [toilets] are located”

Para 57 – The description here appears to have been brought across from the Building Code of Australia. It is a cumbersome definition, which would benefit from some rewording. From a layout perspective it would be beneficial to have paras 55 to 58 on the same page, ensuring that an employer recognises that there are two separate tables that need to be considered.

Paras 63 and 66– The current code of practice for workplaces states that a separate dining area “should be considered” if there are more than ten employees who eat a meal at one time. This draft code implies that it is a necessity. This code appears to be creating a prescriptive standard that is not appropriate.

Para 72 – It is not always possible, or necessary, to provide food warming facilities. The need for this should be considered and provided where possible and appropriate.

Examples of providing dining facilities – for mobile, temporary or remote workplaces – It is unreasonable to expect that an employer will be able to always provide access to a shared or public canteen or cafeteria free of charge to the employee.

Para 82 – It is not clear what is meant by private changing areas. This has the potential to be interpreted as individual cubicles. This is clarified in para 83 as separate facilities for males and females. However, there is the potential that the issue of privacy will be argued in some workplaces; rewording of para 82 would assist.

Para 91 – States a minimum requirement of one shower cubicle for every 10 employees; this is a far more prescriptive provision than the current code of practice which states “as a guide, a ratio of one shower for every 10 such employers may help prevent unnecessary waiting for a shower”. There needs to be some flexibility around this provision.

Para 104 – It is not appropriate or reasonable to suggest that an employer provide all mobile employees “information regarding publicly located facilities”. This may be better worded as “in some circumstances it may be difficult to locate public facilities, e.g. in remote or rural locations; if this is the case employers may establish a list of publicly located facilities.

Para 114 – References the Building Code of Australia; there are other times in the code when material has been accessed from the BCA without a cross reference; a cross reference in other locations might also be appropriate.

Para 118 and 125 – As a guide for the average employer, the use of words like “vertical air temperature gradient”, “radiant temperature symmetry” and “an aggregated opening of not less than 5% of the floor area” are not very helpful. It is recommended that these paragraphs be reworded in plain English.

Para 126 – It is not clear whether this paragraph is further clarification of paras 124 and 125, or an alternative piece of information.

Para 144 – It is not clear in this paragraph whether the WorkSafe guidance note is an alternative to AS3745. If it is an alternative the document should be worded to tell the reader that this is sufficient.

Paras 140 and 151 – In other parts of the code the BCA has been duplicated (toilets and hand basins). In these paragraphs it is referenced, requiring the reader to go to another document. There needs to be a standard approach to including or referencing the BCA.

Appendix C – It is very concerning to see guidance material listed in this appendix as “documents that are incorporated into this compliance code ... form part of this compliance code”. These documents can be modified, updated, removed etc. without any reference to the consultation requirements associated with a Compliance Code. It also does not seem appropriate to include an old code of practice (manual handling) which will soon be replaced by a compliance code. Further some relevant parts of the BCA are included on this list, whilst others of relevance are not included.

Appendix E – In relation to hand washing and dining facilities, there is a cross reference to page 9 and 10 (respectively) of this compliance code. There is no similar cross referencing elsewhere in the document.

Compliance code – First aid in the workplace

Note: *This feedback must be read in conjunction with the general comments made in relation to all codes*

The approach that enables some employers to adopt a “prescribed approach” to determining first aid requirements in the workplace will be welcomed by business.

The code refers to higher risk workplaces; whilst the code focuses on the provision of first aid, it might be appropriate to include a reference to the requirement to eliminate or reduce the risk so far as is reasonably practicable, highlighting that the reduction of risk will reduce the need for first aid requirements.

There are a number of layout issues in this document which could be improved to aid navigation and comprehension.

Once an employer has read the section outlining the options, it is likely that they will go directly to the sections / page numbers that are relevant to those options. For this reason, it may be valuable to move the content in paras 19 to 28 to the front of the code, under a heading “general principles that apply to the provision of first aid in the workplace”.

Paras 7 to 8 – The introduction here presupposes the information to be provided later. It is suggested that a better approach would be to say that “The prescribed approach outlines the first aid requirement that would generally be appropriate to small and medium businesses (10 to ??? employees) and micro-businesses (less than 10 employees). However, an employer may choose to utilise the risk assessment approach outlined below.

Paras 13 to 16 – There may be some benefit of moving the information provided in these paragraphs, into the specific sections of the code that deal with each option; otherwise they may be overlooked by the reader.

Para 13 – The current comment “they need to follow it in its entirety” should be highlighted in some way, to ensure that the employers do not mistakenly pick and choose items from the selected option.

Para 16 – The content of this paragraph should also be highlighted, as it is important for businesses to understand this concept; it may be that moving this section into the Option description, may create the necessary highlighting.

Para 30 and 31 – It is currently stated that this guidance is aimed at workplaces with 10 or more employees or workplaces with less than 10 employees that have a higher level of risk. However, para 31 then defines what a “low-risk workplace” is, although it has not been referred to in the earlier descriptor. It would be beneficial to reword the first dot point to state “low risk workplaces with 10 or more employees”.

Para 34 – this is the second reference to low risk micro-businesses (previously referred to in para 9), but they are still not being told what they need to do to comply, and they are referred to page 9 for more information. It might be appropriate to have Option 1 – Prescribed approach; 1.1 Low risk business with less than 10 employees; 1.2 Workplaces with more than 10 employees and higher risk workplaces with less than 10 employees.

Paras 35 to 64 - The current layout of these paras are quite confusing for the reader. Is it possible to present the material in a table, similar to the one below:

	Low risk workplace with ten or more employees	Higher risk workplace
First Aid Officers	<ul style="list-style-type: none"> • One first aider for 10 to 50 employees • Etc. 	<ul style="list-style-type: none"> • One first aid officer for up to 25 employees • Etc
First Aid Training	The minimum acceptable level of training for a first aid officer for workplaces is	
First Aid kits	<ul style="list-style-type: none"> • One first aid kit for 10 to 50 employees • Etc 	

Para 37 – There is reference to the provision of a first aid officer for every 10 employees, if the location is “remote, isolated or mobile”. This does not take into account the individual employee working alone; a cross reference to para 45 and 46 would assist this process.

Para 39 – There is some concern about the requirement to have level 2 first aid qualifications in low risk workplaces with 11 employees. Consideration should be given to Level 1 training for low risk workplaces, especially those that are small

Para 65 to 69 – We have previously suggested that the low risk micro business information may be better placed earlier in this compliance code. In addition, it is suggested that the cross reference to the contents of the first aid kit would be better made with a reference to the paragraph number, rather than the page number

Para 96 – It is recommended that an additional sentence be included in this paragraph to highlight that it can not be assumed that a qualified health professional is able to provide first aid; they may still require specific training in relation to first aid.

Para 109 – Dot point 6 refers to a “container for soiled dressings”. Consideration should be given to replacing this with “hazardous waste container for soiled dressings”

The flow chart of page 19 is the only place where there is a reference to periodic assessment. It would be valuable to include this information earlier in the document, possibly even move the flow chart to the start of this section. When considering the periodic review of assessment, it would be beneficial to highlight the importance of reviewing the risk assessment if there are new processes, substances or working arrangements introduced into the workplace.

Definitions – the definition of first aid currently states “initial health care and basic life support”. This is not an appropriate or accepted definition, and should be replaced with an alternative such as that adopted by Queensland ambulance service “immediate care given to a casualty suffering an injury or sudden illness until more advanced care can be provided”

Compliance code – Communicating occupational health and safety across languages

Note: This feedback must be read in conjunction with the general comments made in relation to all codes

Concern has been raised about some of the difficult language utilised in this document, which is in direct contrast to the recommendation in the code to use plain English, for example:

- Para 10 heading – culturally and linguistically diverse workplaces
- Para 12 – linguistic and cultural difference can present significant challenges to communication
- Para 12 – establishing ongoing dialogue ... to mitigate

Para 1 – Refers to “the provision of information in languages other than English”, the title of the old code, rather than the new title “communicating occupational health and safety across languages”

Para 2 – the objectives do not appear to fit under the heading “who does this compliance code apply to?”

Whilst the code is targeted to address communication across languages, there is a tendency to stray into issues of literacy in the workplace, e.g.

- Para 32 – It is stated that this can also help identify English-speaking employees who may need assistance with literacy; further whilst reference is made to Appendix D for the establishment of the language profile, literacy in English is not considered in the sample document.
- Para 46 – the final dot point refers to literacy levels and English comprehension

It is recommended that the reference to literacy in English be removed from the document.

There are a range of different terms used in the document, with it not being clear whether they are interchangeable, or have different meanings, e.g.:

- Culturally and linguistically diverse (paras 10, 110 and 112);
- Multilingual workplace (para 17)
- Variety of languages (para 31)
- Cross-cultural (para 106)

The code does not appear to differentiate between small low risk workplaces, and those that are larger with more risks. We would welcome some consideration in the code about how a small employer may meet their requirements, as interpreters, bilingual support staff and English classes may not be a reasonably practicable solution.

Para 31 – This section states “information must be provided in appropriate languages for all employees”. This misrepresents s.22(1)(c) of the Act which states that the employer is required, so far as is reasonably practicable, to “provide information to employees of the employer (in such languages as appropriate). The paragraph should be reworded to reflect the more limited obligation outlined in the Act.

Paras 38 and 41 – Reference to consultation must reflect the provisions of the Act – consult with employees, involving an HSR if there is one – rather than the current wording which focuses on HSRs to the exclusion of employees generally.

Para 45 – Implies that information will always need to be provided in a range of languages; if it was reworded as in which languages and/or in which form, more scope is available for adoption of picture-based signs where appropriate.

Para 75 – It is suggested in this paragraph, that where there is a major language group (which does not appear to be defined) signs need to be in bilingual form ... when more than two languages are required, it is best to use picture-only signs”. Would it be more appropriate to suggest the use of picture-only signs in all circumstances?

Para 96 – Suggests that there is a necessity to provide training on “workplace rights and responsibilities”, “... for employees who are not familiar with Australian workplace”. This dot point is very unclear and may infringe on the employer obligations in relation to workplace relations rights and responsibilities. The removal of this dot point is recommended. This section also implies that this training will be necessary for all workers with overseas origins, e.g. United Kingdom, USA or New Zealand; we do not expect that this is the intention.

Para 103 – States that employers need to consider including English-language classes as part of a long-term strategy. In this context, a preferable terminology would be “may consider ...”

Paras 106 to 107 – Outline the need to train supervisors in relation to cross cultural communication and communicating across cultural and linguistic barriers. However, there is no information about what this training could encompass, what the learning outcomes should be, or how this could be achieved.

Para 108 – This paragraph relates to general responsibilities that may be seen as a role for supervisors in relation to OHS – to communicate clearly and foster a positive safety culture; it is important to note that these are not duties that are specified in either the Act or regulations. It is not appropriate to include this in a code that focuses on communication across cultures.

Compliance code – Prevention of falls in general construction

Note: *This feedback must be read in conjunction with the general comments made in relation to all codes*

What do the regulations require – The answer to this question focuses on the requirement to protect against falls in the construction industry. It would be helpful to refer the reader specifically to the interaction between the falls regulations and the construction regulations, particularly in relation to the need for a SWMS for “high risk construction work”, which includes the risk of falls from more than 2 metres.

Para 24 to 25 – Outline the employer obligations to identify fall hazards

Paras 25 to 33 – Focus on the risk assessment process.

Paras 34 (and subsequent paras) – Deal with the risk control obligations

Given the changed focus in the Regulations (3.3.3 requires hazard identification and 3.3.4 requires control of risk) it is not appropriate to structure the compliance code in this manner.

The document should be written in the same order as the Regulations, with an emphasis on the need to implement known risk controls. A subsequent section could then address the need to utilise risk assessment processes, if that is a necessary step to determine appropriate risk controls.

The following is a practical illustration of the concern about how the document is currently structured: the regulations require an employer to identify the hazard of work “in close proximity to an unprotected ledge”; it might be reasonably practicable to implement an industry recognised solution associated with the use of passive fall prevention device. Under the current structure of the compliance code, employers are encouraged to undertake a risk assessment to identify, amongst other things, previous incidents and injuries. It would be far more effective to consult on how the control measure of a passive fall prevention device can be implemented.

Para 38 – Refers to a need to document why physical fall prevention systems have not been utilised. The only obligation for recording in the regulations relates to the use of administrative controls. If this is the obligation that is being referred to, it would be more appropriate to use the words from the regulation, rather than introduce a new terminology.

Para 60 – Is inappropriately implying that risk assessment is a necessary part of the process for a risk of falls not exceeding 2m. Focus should be on identification and control, with assessment a process utilised if the controls are not obvious and/or might create their own risks.

Para 81 – Appears to be unnecessary; the section would be more consistent with the regulations if it commenced with para 82.

Compliance code – Foundries

Note: This feedback must be read in conjunction with the general comments made in relation to all codes

Ai Group has received feedback from member companies concerned that the Compliance Code is too prescriptive, and not reflective of the varying levels of risk that might occur from one foundry to another and/or one process to another, e.g. it is felt that the PPE requirements are more relevant to the aluminium industry and are in excess of what is required when working with iron or steel.

The introduction section to this code is very long, and provides a number of specifics which could be better located elsewhere, particularly those related to the training and supervision of employees. It would also be beneficial if pictures could be utilised to demonstrate the risks and possible controls.

What is this compliance code about? – It might be useful at this point to identify that the activities of a foundry result in an employer being required to comply with a range of OHS Regulations – and then list the regulations that they may need to reference.

Para 11 – Refers to the risk management process, with a reference to the WorkSafe publication Controlling OHS Hazards and Risks. It might be more beneficial to utilise the diagram on page 3 of the guide, rather than the current words.

Foundry hazards and controls – page 6 onwards – a question of formatting has been raised; it is suggested that a table might be a more user friendly approach. Possibly in the format of:

Description of risk	Foundry specific hazards	Control measures	Relevant regulations

Para 15 – In dot point 1 - it would be helpful if some guidance was provided on what sorts of steps can be taken to prevent moisture coming into contact with molten metal.

Para 16 – Further explanation of the risks associated with the items/chemicals listed in the control measures would be helpful. Is it possible to merge dot points 2 and 3 into one, as they appear to be a bit repetitive. In dot point 4, it would be useful to include some guidance on how this can be done – standard work procedures; process checks etc.

Heat stress – controls – It would be helpful if further information was provided on how unnecessary heat and water vapour sources might be eliminated.

Para 21 (and control measures) – It is recommended that reference is made to “incidental” exposure to bystanders or those passing by; appropriate control measures for those circumstances.

Hazardous substances – controls – An additional control measure relating to a need to have monitoring in place for some of these chemicals if the exposure standard is likely to be exceeded. Should there also be reference to the “code” for hazardous substances?

Lead – Whilst it might seem to be telling people what they should know, it is probably useful to describe which metals contain lead. This section needs to cross-reference to the lead code which provides more detailed information about compliance obligations, particularly in relation to the identification of lead risk jobs. It might also be useful to use examples from the foundry industry about the types of metal and activities that are likely to be lead risk jobs.

Silica – in the introductory paragraph, it would be beneficial to refer to the exposure standard for silica, i.e. rather than just “silica is an occupational carcinogen”, additional words could be added “hence it is important that control measures are in place to ensure that the occupational exposure limit of xxx is not exceeded”. This could be combined with the statement that the use of materials containing more than 1% crystalline silica must not be used for sand blasting.

Silica – control measures – This section provides a good example of the concerns raised by foundry employers about the prescriptive nature of the compliance code. It is stated that “to control the risks, employers need to ensure that: chromite sand is used instead of silica; wet or vacuum methods etc.”.

Silica sand is a common element in the foundry industry and cannot be easily replaced. It is recommended that the control measures are reworded to state that “the exposure to silica can be controlled in a range of ways. Employers should consider whether it is reasonably practicable to introduce one or more of the following control options: use of chromite sand rather than silica sand; wet or vacuum methods ...; mechanical means of handling; use of extractive ventilation etc. Further, this section could include a statement that it may be necessary to introduce air monitoring to ensure that the exposure standard is not exceeded

Dangerous Goods

Para 41 – reference is made to “several fires and explosions ... in the last few years”; a time frame on this would be appropriate as it is likely to initiate debate about whether the industry has, or has not, improved in recent times.

Controls – in dot point 5, it might be valuable to provide examples of possible ignition sources, especially those that are not so obvious, such as forklifts and electrical wiring.

Additional information which could be useful in the control measures are:

- determination of whether dangerous goods are compatible
- identification of potential sources of spills, with appropriate spill control measures introduced
- stores containing DGs are suitably constructed
- emergency equipment in close proximity (whilst taking into account the risks associated with water)

Slips/trips/falls – controls – An additional control of “adequate lighting” could be included in this section.

Para 49 concentrates on routine inspection and maintenance, but does not seem to consider the need to eliminate or reduce first.

Mechanical hazards – controls – dot point 2 refers to isolation procedures; additional information about lock out / tag out systems for all maintenance activities would be valuable

Noise – controls – An additional dot point, between 1 and 2, that focuses on modifying current plant to minimise noise would be helpful. A reference to the requirement for signage and audiometric monitoring should be included.

Para 54 – The description of “direct, tracking through or across a medium” could be replaced with a plain English description.

Electricity – control measures – Additional control measures could include securing high voltage areas to restrict access; contract management process; and permit systems.

Machinery that may cause non-mechanical injury – additional control measures are interlocked guards and lock out / tag out procedures.

Access hazards – mention should be made of the falls regulations and the hierarchy of controls

Workflow – controls – It is our reading that dot points 3, 4 & 5 should be subsets of dot point 2?

Foundry buildings – controls – Dot point 4 should include a statement that storage should be located away from doorways and windows.

Moving molten metal – controls – There should be a major emphasis in the controls section on the need for a “traffic (crane) management plan” which ensures that unnecessary personnel are not in the vicinity of this movement.

Appendix D – Concern has been raised about the potential for change in the exposure standards. Consideration should be given to listing the foundry hazards that have exposure standards and referring the reader to other relevant material. Alternatively, the last sentence prior to the table needs a much higher level of focus (maybe through inclusion at the top of the table).

Appendix E – It would be helpful if UN numbers were included.

Appendix G – Appendix E makes reference to a number of different classes of dangerous goods; the Australian Standard which addresses some of these are not listed in the list, i.e. those that relate to class 6.1 and class 8.

Compliance code – Lead

Note: *This feedback must be read in conjunction with the general comments made in relation to all codes*

Generally this code provides a clear and concise overview of the compliance needs in relation to lead. It has been suggested that there might be value in highlighting the need to use some form of analysis to help an employer determine which of two possible risk control solutions might be most effective; this may be achievable through a reference to the WorkSafe guidance document on Controlling OHS Hazards and Risks and/or the WorkSafe guideline on the two section 12 guidelines.

The illustrations later in the document are particularly helpful.

Para 20 – It is not clear why there is a reference to publication of a determination; as this has no relevance to an employer’s obligations under the regulations.

Para 56 – It is stated that administrative controls can only be used when everything else reasonably practicable has been achieved. We understand the reason for including the last dot point (banning eating, drinking etc.) If we weren’t using lead, we would not need this control. However, it is a specific requirement of the regulations to ban eating, drink and smoking so it cannot be in the examples for administrative controls.

Para 124 – Requires an employer to arrange medical examinations and biological monitoring for people who are working in lead risk jobs. However, no guidance is provided as to what the employer can do if the employee does not want to participate in these examinations and/or monitoring.

Definitions – It would be helpful to have a definition or specific explanation about how “female deemed to be of reproductive capacity” should be interpreted. This is of importance in the workplace where a female may be quite comfortable working in the lead environment because she has made a decision to have no children, or no more children. A further sentence, stating how this would be treated would assist in the implementation in the workplace.

Compliance code – Confined spaces

Note: *This feedback must be read in conjunction with the general comments made in relation to all codes*

The process of reviewing this code of practice was initially complicated by the obvious lack of editing and proof reading prior to release. Under the heading “How to determine whether a space is a confined space”, the numbering was incorrect with the description that was supposed to be 9 (A to D), becoming 9(A to D), 10 and 11. It is hoped that others reading the document were also able to decode this definition.

Excluding that as an issue, it is felt that the introductory parts of the document “skirt” around the definition. Para 2 alludes to some of the risks associated with confined spaces; Paras 4 to 6 give examples, a partial definition and a list of some of the risks; Paras 9 to 11 (as outlined above) use the specific definition of a confined space. It is recommended that the first reference to a confined space should be the clear definition. Further clarification can then be provided relating to the types of structures that can be confined spaces and the risks associated with them.

It may also be beneficial in the introduction to refer to workplaces that are not “confined spaces”, but still have some of the risk components. There is a WorkSafe document that addresses those issues, and reference to it might be valuable

Table – pages 4 & 5 – We are concerned about the inclusions of examples that “are not” confined spaces, for example a shipping container may have unknown contaminants; a “new tank” may have contaminants associated with the painting or cleaning of the tank before delivery. If examples of “no” are to be included; some cautionary statements would be valuable, e.g. in relation to the forklift in a cool store, reference might be made to other possible risks.

Para 18 – The current wording of this paragraph appears to be too focused on what the designers and manufacturers do not have to do. The emphasis should be on the risk control duty.

Para 19 – heading – Eliminating or reducing ... would be a better heading.

Para 27 – The gauge should include a “maximum for safety entry” on the illustration.

Para 50 – As risk assessment is not a specific obligation under the Regulations, it does not seem appropriate to include a range of dot points (without explanation) outlining how a risk assessment might be carried out. This information is generally included in the sections which relate to risk control options, and they are better located there.

Para 56 – Should have as its last dot point, “the requirement for appropriate personal protective equipment”

Para 61 – If it is determined that this work might create a risk, it needs to be modified or ceased.

Compliance code – Managing asbestos in workplaces

Note: This feedback must be read in conjunction with the general comments made in relation to all codes

Box on page 3 – It is hoped that the box on page 3 is intended to be removed from the code. It is very confusing. Paras 17 to 19 are a far better explanation.

Prohibitions – heading – If a person is attempting to access the source of this information, they will not find it in the OHS Act ; it would be helpful to identify the Regulation provisions in this section of the code.

Asbestos in workplaces

It would be helpful if the information could be provided in such a way (either in the body of the document or as an appendix) that illustrates the relationship of roles between the person in control and the employer – especially where they have the same and/or overlapping responsibilities. The types of questions many will ask in this situation are – can we jointly engage one consultant to prepare an asbestos register – or do they need to be done separately and independently?

It may be helpful to have a brief flowchart, or list of dot points, that outline the major requirements of the regulations – e.g.

- **Identify** the existence and nature of asbestos sources or suspect sources
- The establishing of a **register** of sources, location and condition
- **Consult** and assess the mechanisms of exposure
- **Label** and warn others of the locations and prohibition on disturbance
- The process for **competent removal** and notification
- **Informing and training** of employees and/or contractors
- **Monitoring, reviewing** and revising controls

Para 24 – it might be valuable to cross-reference the requirement in relation to half the exposure standard, to the need for air monitoring to verify.

Para 48 – Is it possible to provide a reference point to help duty holders understand which source countries might be “high risk”.

Para 50 – Can this information be included in an Appendix to this code (a similar list is provided in Appendix C of the removal code; alternatively, can the ASCC website address be included (this might not be a good option considering that this might change when the ASCC is replaced in October 2008).

How to identify asbestos? – This section provides some good information for duty holders.

Para 79 – It would be helpful to add fire doors to this list.

Para 92 – Is a very convoluted paragraph which does not really provide information about the best way to comply. As outlined above, the two duty providers will want to know the practical implications of this obligation, can we jointly commission one person to do this work, or do we need to duplicate the process, creating additional costs? A format which identifies the linkages between the two sets of responsibilities would be helpful.

Para 107 – Increased emphasis should be given to the last sentence of this paragraph.

Para 109 – Appears to contradict para 107, and the intent of the regulations. It is recommended that para 109 be removed.

Paras 174 to 176 – We recognise the regulatory obligations here, which are clearly restated in the code. However, there does not appear to be any recognition of the possible need to “make the area safe” before taken recovery action.

Compliance code – Removing asbestos in workplaces

Note: This feedback must be read in conjunction with the general comments made in relation to all codes

This code generally provides good information for duty holders involved in the removal of asbestos

Box on page 3 – It is hoped that the box on page 3 is intended to be removed from the code. It is very confusing. Paras 17 to 19 are a far better explanation.

Prohibitions – heading – If a person is attempting to access the source of this information, they will not find it in the OHS Act ; it would be helpful to identify the Regulation provisions in this section of the code.

Para 31 – It would seem to be more useful to use an example which directly relates to removal work.