

## Rapid Response Protocol

The **Rapid Response Protocol (the protocol)** has been developed by the **Imported Materials with Asbestos Working Group (Working Group)**, which is a working group of **The Heads of Workplace Safety Authority (HWSA)**.

The protocol comes into action if ever asbestos-containing products cross, or have crossed, state lines. The purpose of the protocol is to enable government agencies to work together efficiently to manage the situation across jurisdiction and portfolio lines.

The protocol will ensure that information is shared by all government agencies (that the particular incident is relevant to) to enable a uniform enforcement and national approach in dealing with the incident and in dealing with future incidents.

The objectives of the protocol are to:

1. Provide a consistent approach to the risk assessment and treatment of asbestos-containing materials (ACMs) identified within Australia.
2. Ensure that there is guidance available to the HWSA Working Group and flexibility to address a variety of scenarios.
3. Ensure secure handling of information in line with relevant legislation.
4. Reflect the expectations of the government and community.
5. Provide a clear guide for the allocation of resources in response to allegations made in the form of referrals to any of the members of the Working Group.
6. Allow for the sharing of information amongst members of the Working Group.

The Protocol is intended to guide parties on the appropriate and available procedures, and assure governments and the community that any incidents involving the importation of ACMs are being managed and investigated thoroughly and proactively. It should be used to facilitate consistency, transparency, to clarify responsibilities and to allow for rapid and effective communication and collaboration amongst the participants.

### **Development of the Rapid Response Protocol**

The Working Group was established to deal with issues regarding imported materials that contain asbestos and members agreed to the development of a Rapid Response Protocol to enable the rapid sharing of information between government departments and agencies on asbestos matters relating to imported goods.

The Working Group is made up of representatives from:

- The Asbestos Safety and Eradication Agency (ASEA)
- Australian Competition & Consumer Commission (ACCC)
- Department of Home Affairs (Home Affairs)
- SafeWork Australia
- Safe Work SA
- SafeWork NSW
- Workplace Health and Safety QLD
- WorkSafe ACT
- NT Worksafe

- WorkSafe TAS
- WorkSafe VIC
- WorkSafe WA

### **Purpose of the Rapid Response Protocol**

The Protocol will enable the Working Group members to:

- alert other Working Group members of a new incident involving the importation of ACMs into a jurisdiction,
- describe the incident by providing a brief description of the scope of the issue.
- provide details of the importing body, including a risk assessment if possible and any other relevant data, including contact details,
- provide details of the action taken to date,
- advise on further action to be undertaken by the reporting jurisdiction,
- share information, such as details on when, where, and by whom imports have occurred, as well as safety alerts relating to a particular incident.

It will also enable Working Group members who have been notified of a new incident to:

- comment on an incident reported by another jurisdiction,
- share any relevant information,
- utilise information shared by other jurisdictions, such as safety alerts etc,
- propose further action, such as the convening of a Working Group meeting.

### **HWSA Working Group Secretariat**

The Secretariat of the Working Group is the administrator for the Protocol. The sharing of information through the Secretariat will enable Working Group members to communicate issues that relate to the detection of ACMs that have been imported into their jurisdictions, which may also potentially affect other jurisdictions.

The agency or authority which first detected the issue can contact the Secretariat and ask for details about the issue to be shared with the Working Group as soon as possible, or alternatively can contact relevant members of the working group directly and also the secretariat.

Any of the Working Group members, including the initiating agency or authority, can also ask for the Secretariat to quickly arrange a Working Group teleconference to collectively plan the next steps and to determine roles and responsibilities for each of the agencies and authorities involved. The Working Group will collectively manage the issue through to resolution on a case-by-case basis.

The contact details for the Secretariat are currently: [Secretariat@asbestossafety.gov.au](mailto:Secretariat@asbestossafety.gov.au). Each Working Group member is responsible for maintaining and updating valid contact details with the Secretariat.

### **What would be considered to be a reportable incident for imported goods?**

An incident should only be reported to other jurisdictions via the Protocol where the following conditions have been met:

- the incident involves the importation of ACMs,

- the goods have been confirmed to contain asbestos.

Further, the level of response should be appropriate to the level of risk. To determine the risk, a Risk Assessment Process has been developed, as detailed below.

### **How is the Rapid Response Protocol initiated?**

An agency or authority which either first identifies, or is first referred a reportable incident in their jurisdiction, and believes the issue may affect more than their jurisdiction, should initiate the Protocol by alerting the Working Group Secretariat as soon as possible.

### **Stages of the Rapid Response Protocol:**

#### **Risk assessment process**

The level of response to a particular incident will be determined by the completion of a risk assessment which is undertaken by the agency or authority which first received the referral or identified the issue.

#### **Pre-Implementation**

Prior to reaching the 'response stage', a number of steps should be taken. This may include:

- the receipt of the international or domestic referral to your Agency from a member of the public, industry group, union, manufacturer, trades person or other,
- consultation with ASEA, Work, Health and Safety Regulators, the ACCC or Department of Home Affairs to establish whether the relevant item has previously been confirmed to contain asbestos,
- discussion or correspondence with the owner or importer of the goods to establish the source of the product and whether it had been imported, details of the importation including the source of the goods, and how wide the distribution has been domestically.

After gathering these facts and confirming that the goods are ACMs, the agency or authority which first detected the issue will alert relevant members of the Working Group through the Working Group Secretariat. If there is no current information on whether the goods are ACMs, testing will be required prior to alerting relevant members of the Working Group.

#### **Stage 1 – Testing**

The relevant regulatory agency undertakes testing themselves or organises it to be undertaken via notice to the person conducting a business or undertaking (PCBU). The most suitable option would be determined based on the level of cooperation by the PCBU as well as the level of risk etc.

<b>Time</b>	<b>Coordinator</b>
Pre-Border	Department of Home Affairs
Held at Border	Department of Home Affairs
Post-Border	Relevant WHS regulator or the ACCC

Working Group members should also be advised of negative results as soon as possible to avoid further re-testing undertaken by other Working Group members. Where results confirm the presence of asbestos, members should move to Stage 2.

## **Stage 2 – Risk assessment**

**During risk assessment, there are three Elements to consider: nature, scale and scope**

Investigation is necessary to collate the information below to inform the level and extent of response required.

### **Nature – What type of risk is posed by the goods?**

- Are the goods of high risk to persons – is the asbestos friable in nature?
- Are the goods likely to continue to be imported?
- Are asbestos particles/fibres likely to be readily disturbed?

### **Scale – What is the extent of the risk?**

- How many jurisdictions have the goods been identified in?
- Are the goods in mainstream consumption? For example, are the goods likely to be in both workplaces and within the general public?
- What is the estimated number of units imported?

### **Scope – Is the risk increasing?**

- Were the goods imported? If so, who was the importer and the supplier?
- Are the goods likely to continue to be imported?

## **Stage 3 – Response**

The agency or authority which first detected the issue will assess the level of risk using the above factors as a guide. Specific response actions will need to be determined on a case-by-case basis following initial investigation. The factors outlined above should be used as a guide only. Depending on the level of risk, the actions below may be considered appropriate:

### **High Risk:**

Where risk is considered high, all members of the Working Group and other relevant regulatory authorities will be involved in implementing the response.

The response will likely involve:

- nation-wide recall provisions administered by the ACCC (consumer goods only),
- Department of Home Affairs Compliance Assurance (national targeting and outreach) activity at the border,
- potential prosecution of importer,
- regulatory activity enacted by all state and territory work, health and safety authorities.

### **Medium Risk:**

Where risk is considered medium, relevant members of the Working Group and other relevant regulatory authorities will likely be involved in implementing the response.

The response will likely involve:

- smaller-scale recalls administered by the ACCC (consumer goods only),
- Department of Home Affairs Compliance Assurance (national targeting and outreach) activity at the border,
- regulatory activity enacted by all state and territory work, health and safety authorities.
- notification to other Working Group members,
- if tests are negative, this could inform the group if future referrals or allegations are received,
- response to be actioned by relevant Regulatory authorities.

### **Low Risk:**

Where risk is considered low, the response will likely involve:

- notification to other Working Group members,
- if tests are negative, this could inform the group if future referrals or allegations are received.

### **When to involve the Australian Competition and Consumer Commission (ACCC)**

If asbestos is confirmed in a consumer product that was supplied in trade or commerce, the ACCC should be informed and involved in any response.

However, the following should be noted:

- consumer goods are those for personal, household or domestic use, including fixtures in buildings, even if they may also be for industrial use. (This applies regardless of whether the goods were imported or sourced within Australia),
- if the goods are also covered by another specialist regulator (e.g. motor vehicles) then the ACCC would also seek to involve that regulator. (Examples include watercraft, cars, pumps, lawnmowers, home-wares, electrical appliances, domestic landscaping supplies, domestic animal food, DIY building supplies, etc.),
- goods supplied to consumers before the asbestos was prohibited would not involve the ACCC since there are other government programs in place to address those hazards (for example, asbestos in gaskets in old vehicles and motors, asbestos in wall sheeting and installed in homes before the relevant prohibitions).

NOTE: The ACCC administers the product safety provisions of the Australian Consumer Law including the recall provisions governing how recalls should be conducted – so it is important to involve the ACCC whenever goods with asbestos have been supplied to consumers, even if this is in relatively small quantities and even if the goods have only been distributed in one jurisdiction or location.

### **When to involve the Department of Home Affairs**

The Department of Home Affairs should be informed and involved in the Protocol if ACMs are:

- confirmed in goods known to have been imported,
- confirmed in possession of a person or company that regularly trades internationally,
- confirmed in goods which may have similar products being imported,
- suspected in goods which are likely to be imported (possibly from international referral).

The Department of Home Affairs' involvement will vary based on a tiered differentiated risk response but can include the following:

- data analysis of import/export history,
- outreach to entities, customs brokers, industry sectors and industry groups,
- auditing or interviewing of importers/exporters for trade and sales history,
- coordinating sampling and testing of goods at the border,
- stopping consignments and issuing penalties for imports in confirmed cases (prohibited import offences are strict liability),
- investigation and prosecution of cases.

### **Reporting to HWSA**

Following the resolution of an incident involving the importation of ACMs, the Working Group will report back to HWSA through the Working Group Secretariat, by completing the pro forma template at Appendix A. The agency or authority which first detected the issue will take the lead in completing the pro forma. The pro forma will include details of the incident such as when the issue was first detected, the types of goods involved, the jurisdictions that have been impacted, the actions taken to address the issues by the relevant regulators as well as any action taken to prevent future occurrences of the incident. The Working Group will also report to HWSA periodically, on a quarterly basis.

## **Appendix A**

### **Rapid Response Protocol Reporting Template**

The following template should be completed by Working Group members following the resolution of an incident. The agency or authority which first detected the issue will take the lead in completing the template.

#### **INCIDENTS INVOLVING IMPORTED MATERIALS CONTAINING ASBESTOS REPORT**

<b>DATE</b>	<b>PARTIES INVOLVED</b>	<b>BACKGROUND</b>	<b>ISSUE</b>	<b>OUTCOMES</b>