

Electrical and Communications Industry comment on proposed Work Health and Safety regulations and codes



WESTERN AUSTRALIA CHAPTER

Unit 18 – 20,
199 Balcatta Road,
Balcatta WA 6021
PO Box 782,
Balcatta WA 6914

T 1300 NECA WA
F +61 8 9240 4866
E necawa@necawa.asn.au
W www.neca.asn.au
ABN 19 295 806 769

BACKGROUND

The National Electrical and Communications Association WA (NECA WA) support the business interests of electrical and communications contractors in Western Australia. Our current membership is in excess of 740 electrical and communication contracting businesses ranging in size from single person operations through to multi-million dollar operations.

In addition to our core membership NECA WA provides in excess of 800 electrical apprentices to the industry through the Electrical Group Training (EGT) business and provides education to 2000 electrical apprentice annually through the Colleges of Electrical Training (CET), which also provide post apprenticeship courses to the industry.

Our current structure and operating model places us in the unique position of being an Industry representative as well as an employer of almost 950 employees (apprentice and support staff)

COMMENT ON POTENTIAL INDUSTRY IMPACT ASSOCIATED WITH ADOPTION OF THE PROPOSED MODEL WORK HEALTH AND SAFETY REGULATIONS AND MODEL CODES OF PRACTICE

WorkSafe have already identified 13 key areas of change associated with the adoption of the proposed model regulations and model codes of practice. Of these 13 the following will have a direct impact on the Electrical and Communications sector.

- Asbestos
- Construction projects
- Fall prevention
- Incident notification
- Noise

In addition to the above we will also present concerns specific to section 4.7 General Electrical Safety in Workplaces and Energised Electrical Work.

ASBESTOS

Item 1

The proposed changes related to asbestos that will impact our industry are:

Part 8.1 Prohibitions and authorised conduct.

419(1) dictates that a PCBU cannot direct an employee to work on asbestos – Most domestic and commercial meter boards are known to be asbestos, currently electrical contractors are able to work safely on these boards using appropriate safe working practices. The inability to do this in the future is going to result in a significant cost to households and businesses. It would mean that prior to any household work being carried out a licenced asbestos removalist would need to be engaged.

419(2)(c) permits work defined as maintenance or servicing but not all work carried out by the industry on asbestos boards necessarily come under these definition's. In many cases the work undertaken can be defined as new work. Using the current proposed regulations electricians would no longer be able to undertake this work.

Before undertaking any work for a customer with an asbestos meter board the customer would be required to meet the following costs if the electrician is permitted to do the work and the cost would be higher if a licenced asbestos removalist is engaged as that would require two persons attending to complete the job. (The licenced asbestos removalist and the electrician to de-energise the system etc.).

Quote No. T-3764			ACN
Estimate: NECA SWITCHBOARD CHANGEOVER			Date Printed: 11/10/12
			Page: 1 of 1
Description	Price	S/tax \$	Total Price
SWITCHBOARD ISOLATION AND REMOVAL	130.00	0.00	130.00
WESTERN POWER DISCONNECT RECONNECT	550.00	0.00	550.00
NEW SWITCHBOARD	566.55	0.00	566.55
ASBESTOS DISPOSAL	100.00	0.00	100.00
Bill of Quantities Total	\$1,346.55	\$0.00	\$1,346.55

Taken from an actual quote to undertake the work being discussed
 This cost would be higher for a commercial customer as the configuration of equipment would be more complicated and therefore take longer.

Recommendation

Review the wording of the identified regulation to enable safe work to continue on meter boards or ensure clarity that this is contained in the associated code of practice.

OR

If this section remains as is and is deemed to be part of the States drive to manage the known health risks associated with asbestos, our recommendation is that the State Government, implement a meter board change out program. NECA WA would whole heartedly support this proactive approach to the management of this known risk. Such an approach would provide an acceptable standard across the state and assist with the elimination of this known risk. It might even be combined with a retro fitting programme of RCD's demonstrating State Government commitment to household electrical safety.

OR

In line with 419(4) the State Regulator agrees to work with NECA WA to develop an industry specific Code of Practice that approves a method of safe working practices that can be adopted by the industry that enables work on switchboards to continue.

Item 2

425(1) requires that the PCBU has an asbestos register for the workplace. As the wording stands this will be an additional cost to the business, regardless of whether they are the building or premises owner. The fact that both parties can be viewed as the

PCBU this situation gives rise to nothing being in place whilst each party argues who's responsibility it is to provide the document.

425(2) require that the register is maintained to ensure that the information in the register is current.

426(a)(b)(c) defines when the register should be updated but does not put a minimum review timeframe outside of the areas identified.

Recommendation

Review this section to ensure that the building owner has the responsibility to provide an asbestos register for their building and define the timeframes for review i.e. annual, bi-annual etc. This can be addressed in depth in the Code of Practice if necessary.

Item 3

429. Asbestos Management Plan.

This is a new requirement to the industry and due to the nature of the work undertaken by our members will be a requirement for each business.

Estimated Cost

Based on current OHS consulting rates of \$165 per hour we estimate that this task would take an average of 2 days (15.2 hours) to complete. If this task is completed by existing staff we estimate that the cost would be the same or similar when lost revenue is taken into account. Based on this we estimate that this new process will result in a cost of **\$2,508 for every business operating in the state.**

The cost to our membership alone would be \$1.85 million.

Item 4

Part 8.5.Division 1. Asbestos Management. Health Monitoring.

This section of the proposed Regulations represents a significant change in the management of Asbestos related safety to our membership and with these change significant increases in operating costs.

Electrical and Communications contractors will now be required to introduce asbestos related health surveillance at the pre-employment process and train all existing staff in the new requirements in this area.

436(b) recommends monitoring by a medical professional and appears to contradict 437(1) which determines that examination by a medical practitioner is required.

Spirometry test \$55 plus GST for each employee.

(Current price as of 12.10.12 – Redimed)

Recommendation

Determine, and ensure consistency, regarding a medical practitioner being required or simply recommended.

Item 5

There is now an additional requirement for the PCBU to provide compulsory asbestos training.

Item 6

General electrical safety in workplaces and energised electrical work.

In General, the concerns we have with this section of the proposed regulations are the lack of clarity around implied understandings and some clauses appear to prohibit what is industry recognised good safe work practice. To ensure clear interpretation of the regulations the following matters need to be clarified either in the regulations or in the supporting codes of practice.

144(1)(d) inclusion of cathodic protection (CP) in workplace legislation creates technical issues because any health and safety issues must be addressed in design.

An example of this is contained in the treatment of cathodic protection in the Queensland Electrical Safety Regulation where health and safety issues must be addressed in design:

- . the maximum operating voltage is set to 50V dc, and
- . the Anode must be positioned such that the voltage drop in water is no more than 3V dc per meter.

There are no work practice requirements, nor evidence, or fact that identifies work practices as a safety issue when accessing a CP installation. However, choosing to include extra-low voltage structures means the work practice requirements under Division 4 apply and these are inappropriate and create massive distortions.

It is noted that the draft Code of Practice Managing electrical risk in the workplace, specifically excludes CP as being prohibited (refer 5.1, page 25). This is a direct contradiction of r144 Part 4.7.

Some CP structures are public facilities and there will need to be special exemptions to permit unauthorised access under regulation 159, for example. R161 will apply.

Recommendation

Delete subregulation 144(1)(d) and adopt WA Electrical Licencing Regulation 1991 definitions to prevent confusion or opportunities for misinterpretation

Item 7

145(1)(a) Electrical installation is “permanently electrical connected together”

145(3)(a) excludes all plug and socket connections as “not permanently electrical connected”.

The wiring rules (AS/NZS 3000) foreshadow an increased usage of plug connectors within electrical installation. That means, for example, that many permanent light fittings located in false ceilings are not part of the electrical installation. This electrical installation work could be construed as not being the work of an electrician, which may conflict with other electrical safety legislation.

This issue has been raised during the development of the National Harmonised Regulations and the response has been that this is a policy position. The issue here is that the unintended outcome is that the regulation is redefining the industry understanding of what an electrical installation is. Using foreign definitions distorts subsequent regulations and makes rational explanations in the Code near impossible.

Recommendation

Adopt WA Electrical Licencing Regulation 1991 definitions to prevent confusion or opportunities for misinterpretation.

Item 8

146(2) Certain exclusions for electrical work involve assessment of electrical risk to ensure the work can be undertaken safely.

146(2)(b), 146(2)(c), and 146(2)(f).

Given the examples, it would appear to enable unqualified persons to do certain work. It is not clear if the assessment of risk must be undertaken by a qualified electrical person. Given that the nature of the risk is electrical then it would seem appropriate for the person undertaking the risk assessment to be appropriately qualified.

Recommendation

Provide clarification in the Code of Practice and ensure that any ambiguity is removed that might lead to unqualified persons undertaking electrical assessments or work.

Item 9

146(2)(f) appears to permit an unqualified person to locate and mount electrical equipment so long as it is not connected to an electrical supply.

This would appear to conflict with licensing requirements and Electrical Safety legislation and may be misleading.

Recommendation

Remove 146(2)(f) or clarify

Item 10

146(2)(g) Within the context of 146(2) it would seem that (g) expressly deems that an unqualified person undertaking electrical work, as not undertaking electrical work. Currently in Western Australia, an Electrical Apprentice is required to have a training licence issued by energy safety and whilst they do not work on “live” systems they are still deemed to be undertaking electrical work. Again, it appears that the unintended interpretation of the proposed regulation is redefining the industry definitions and understanding as well as directly contradicting other pieces of legislation.

Recommendation

Need for clarification of 146(2)(g) to ensure that the proposed regulations do not contradict existing Electrical safety legislation/standards or definitions.

Item 11

154 Electrical work on energised electrical equipment — prohibited.

Licensed electricians undertake live work daily such as fault loop impedance testing or work connecting to the network. To have an effective prohibition we need to distinguish what is routinely permitted and what are special circumstances and that point is lost in the current wording.

Recommendation

The easiest solution at this point is to delete the words “required under regulation 155” from sub-regulation 157(1)(c).

Item 12

155(1) specifically permits live testing in relation to the isolation process before (ie prior to commencing) de-energised electrical work and that is satisfactory. However 155(2)(a) is not so clear

Whilst the intent seems to be to permit “TEST BEFORE YOU TOUCH”, the electrical worker must do this within the context that they treat each part “as energised until it is isolated and determined not to be energised”.

Recommendation

We are of the opinion that certain testing activities are prohibited by the constraints placed on testing in 157(1)(c) and this presents a serious safety issue.

As identified in the draft Electrical Code, testing is the means of ensuring that the qualified electrical worker knows what they are confronting. If they do not know and are prohibited from knowing then they will expose themselves to inordinate danger and work would not proceed.

Under 157(c) delete “required under regulation 155”

Item 13

155(2)(b) “each high-voltage part is earthed after being de-energised.

This should read that “each high voltage part is earthed after being de-energised and tested (if possible).” No high voltage worker would apply earth probes to a High Voltage busbar or circuit breaker spouts unless they had tested the installation.

Recommendation

Amend 155(2)(b) to read “each high voltage part is earthed after being de-energised and tested (if possible).”

Item 14

157(1)(c) “it is necessary for the purpose of testing

As indicated in the discussion of 155, the testing required to ensure a safe workplace is not permitted under the requirements of 155.

The only testing permitted under 157(1)(c) is that permitted under 155. Electrical testing may be carried out as part of energised electrical work.

This prohibition is a major safety issue as it is critical that electrical workers know the exact status of all relevant parts of the equipment or installation as they require. It is the reason why most jurisdictions allow electricians to freely TEST BEFORE YOU TOUCH, subject to appropriate precautions.

It should be noted that electrical workers may carry a non-contact voltage sensor. These devices can provide an indication of status but cannot be relied on. The test probes must make physical contact with the conductive surface to have a positive reading.

Recommendation

Delete the words “required under regulation 155”, under 157(1)(c).

Item 15

157(2) that clarifies testing.

This subregulation confirms that live testing is permitted when undertaking energised electrical work under subregulation 157(1)(a), (b) and (d).

This would seem to be illogical and unnecessary but confirms that there is a prohibition on certain testing activities whilst undertaking electrical work on a subcircuit that is isolated.

Recommendation

Delete 157(2). If this is not possible then clarification needs to occur in the Code of Practice

Item 16

Division 4 of Part 4.7 is **notably silent on “fault-finding”**.

The majority of fault-finding is testing but it can involve tracing of wires, running equipment and adjusting to make the equipment or installation operational. This is not unlike repairing a computer or TV and at times the equipment must be energised.

It would be necessary for the equipment to be energised under and work is would be permitted under 157(1)(b).

The concern is that electricians are licensed to work alone and the vast majority of electrical contractors are sole traders. When an electrician finds a fault or they are presented with a malfunction, then they must find the cause and rectify. Often this is an immediate requirement because the equipment cannot be left in an unsafe condition.

In many situations it is not necessary or practicable for the worker to have a credentialed observer as required under Division 4 for energised electrical work.

Fault-finding is sufficiently common to effectively cause a prohibition on sole traders working alone. This is a licensing issue.

Recommendation

Fault-finding should be grouped with testing particularly in relation to exemptions in relation to energised electrical work.

FALL PREVENTION

Item 17

The proposed changes related to falls that will impact our industry is the change from determining at what height fall prevention measures come into play to a purely risk based approach to the management of potential falls.

The associated Code of Practice does not refer to any specific requirements and the wording move from “Shall” which is a directive to “Should” which becomes a recommendation.

Attention needs to be brought to the risk this poses. Without having guidelines to work within current accepted practices may become obsolete.

We recognise that this move is in line with the greater focus on the PCBU’s requirement to apply risk management principles to all aspects of safety management within their business and this is supported, in principle, by NECA WA.

However, consideration needs to be given to the financial impact this is going to have on all businesses through training requirements and current documentation review.

As an example using the attached Industry charge out Rates, a small business with an owner operator trade’s person, an additional trade’s person, 2 apprentices and an administration assistant each 2 hour training session will cost

\$ 694.36 in wages
+\$ 694.36 in lost billable time
=\$1,388.72.

When this figure is then expanded across every workplace the cost on this one part of the proposed legislation starts to become apparent.

Recommendation

There are undoubtable areas of the current State Legislation regarding falls that are not clear or require review, one such area is the working at 2 meters and working at 3 meter requirements leaving the area between 2 and 3 meters vague. However, it is our view that the State would derive more benefit from reviewing and tightening up the current legislation that adopting a whole new process.

CONSTRUCTION WORK

The proposed regulations will result in a significant reformation of how contractors operate within the construction industry in Western Australia.

Adoption of the National model as currently in operation in the Eastern States including the need for a Site specific safety management plan for each site and compulsory use of SWMS for all high risk activities will require re-assessment and adjustment of current

working practices. Development of these plans and SWMS will require additional resources, costs and training to enable the required changes.

Item 18

292 Meaning of construction project

The move to defining a construction site as one where the cost of the construction work is \$250 000 or more will result in many more sites being required to adopt these changes than is currently the case. This will require an additional cost for each contractor participating in a construction project and a cost that will need to be recouped via the principle contractor.

295(a) (b) A designer must give a safety report to person who commissions a design. If adopted there will now be a requirement for manufacturers of Switch Boards or similar to provide a written report with each structure that details specific hazards relating to the design of the structure and this must be a structure specific document not a generic one.

Item 19

309 WHS management plan — preparation

310 WHS management plan – duty to inform

311 WHS management plan — review

Recommendation

This is a significant change to the current construction landscape and apart from the financial costs that will be incurred due to the need to develop resources and train all staff in the new processes and the inevitable rise in project costs to accommodate the change, it is our belief that there would need to be a significant awareness campaign associated with this change driven by the state legislative body.

Item 20

312 High risk construction work — safe work method statements

Recommendation

As for item 19

Item 21

INCIDENT NOTIFICATION

The Model Work Health and Safety Act (2011) require Persons Conducting a Business or Undertaking (PCBU) to notify their Regulator in the event of a death, serious injury/illness or dangerous incident that arises out of the conduct of the business of undertaking.

The introduction of the serious incident category and increased reporting responsibilities on the PCBU will initially result in confusion and will require a significant information campaign from regulator.

NOISE

58(1)(2) The proposed new requirement to provide audiometric testing within 3 months of commencement of employment and as a minimum every 2 years throughout their employment is a significant change from the current legislation.

We recognise that this move is a response to evidence emerging from Workcover that noise induced hearing loss is flagged to be one of the largest burdens on the system in the future and a move to manage this risk and implement preventative measures is supported, in principle, by NECA WA.

However, consideration needs to be given to the financial impact this is going to have on all businesses at a time when many electrical and communications contractors are reporting less work availability, this and other increased costs related to the implementation of these proposed regulations will prove to be a stressing factor on the industry.

CONCLUSION

This response paper has looked at some of the specific areas that the proposed Harmonised regulations will impact on the electrical and communications industry. As with all legislative changes there will also be additional implications based on general changes that apply to all businesses and those general aspects has not been directly responded to in this paper.

Over all NECA WA's position is that the implementation of the Harmonised Legislation cannot achieve the original objective of National Harmonisation as other States have already indicated that they will not be participating and the States that have adopted the base legislation have retained some state based differences.

With this in mind the question that has to be asked ...

“Is the expense that will be incurred at the Western Australian State Government level and then at the business level justifiable when the original objective is clearly no longer obtainable?”

NECA WA supports any changes that will improve the safety of the industry, businesses and individuals that it represents but feel that a portion of the money that might be spent on the implementation of this proposed legislation would be better spent reviewing the current legislation and strengthening the areas that need it rather than engaging in a process of change for the sake of change.

The financial strain that will inevitably follow the implementation of the Harmonised Legislation will be considerable, not only on the members we represent but every business in WA and household consumers.

We anticipate that training budgets will need to double in the first 2 years of adoption of this legislation to ensure all the changes are implemented and understood. System reviews and documentation and process changes are going to be onerous and take time money and resources to achieve at a time when State based industries are experiencing a down turn in work availability.

Appendix 1

RECOMMENDED INDUSTRY CHARGE OUT RATES

THESE RATES ARE RECOMMENDED ONLY AND THERE IS NO OBLIGATION TO COMPLY WITH THE RECOMMENDATION

Operative: 1 July, 2012

LEADING HANDS, TRADEPERSONS AND TRADEPERSON'S ASSISTANTS		Ordinary Time	Time and a Half	Double Time	Double Time and a Half	Composite or 6 day rate
		Per Hour \$	Per Hour \$	Per Hour \$	Per Hour \$	Per Hour \$
CONSTRUCTION/ INSTALLATION WORK Refer notes below	Leading Hands	108.97	132.94	156.92	180.89	116.27
	Tradespersons	107.02	130.56	154.11	177.65	114.18
	Tradesperson's Assistants	92.33	112.65	132.96	153.27	98.52
SERVICE WORK Refer notes below	Leading Hands	100.74	122.90	145.06	167.22	N/A
	Tradespersons	98.81	120.55	142.29	164.02	N/A

NOTES:

Construction / Installation Work

- The actual cost of site allowances and other site specific payments shall be additional to the above rates. It is recommended that this be at cost plus 15 per cent.
- The actual cost of site supervision and re-drafting expenses shall be additional to the above rates.
- It is recommended that contractors include an adjustment factor for projects of a duration in excess of six months e.g. by anticipated CPI.
- The Composite or 6 day rate is based on 46 hours, Monday to Saturday.

Service Work

- It is recommended that a service fee of 75 percent of the appropriate recommended hourly charge out rate be charged in addition to the charge for time worked. As an alternative, a minimum charge for labour of one hour should be charged with all travelling time to be charged as time worked.

General

- Motor Vehicle Charge:** \$1.00 per kilometre
- Materials:** Supplier's trade price plus 20%

APPRENTICES	Ordinary Time	Time and a Half	Double Time	Double Time and a Half	Composite or 6 day rate
	Per Hour \$	Per Hour \$	Per Hour \$	Per Hour \$	Per Hour \$
1st Year	47.12	57.48	67.85	78.21	50.27
2nd Year	57.82	70.54	83.26	95.98	60.69
3rd Year	72.00	87.84	103.68	119.52	76.82
4th Year	82.71	100.90	119.10	137.29	88.24

Please note: The above rates do not include GST.