

# Submission form



## Proposed Occupational Health and Safety Amendment (Crystalline Silica) Regulations 2021

**Note:** Areas marked with an asterisk (\*) denote required information.

<b>Type of submission *</b>	Individual <input type="checkbox"/>	Organisation <input checked="" type="checkbox"/>
<b>Organisation name</b> (where applicable)	Dennis Family Homes	
<b>First name *</b>	Click here to enter text.	
<b>Last name *</b>	Click here to enter text.	
<b>Email address *</b>	Click here to enter text.	
<b>Postal address</b>	Click here to enter text.	
<b>Postcode *</b>	Click here to enter text.	
<b>State *</b>	Choose an item.	
<b>Do you consent to WorkSafe publishing your submission?*</b>	<input checked="" type="checkbox"/> Yes – WorkSafe may publish this submission with my name.	
	<input type="checkbox"/> Yes – WorkSafe may publish this submission, but without my name.	
	<input type="checkbox"/> No – WorkSafe may not publish my submission due to confidentiality reasons.	

**Note:** All submissions will be treated as public documents and will be published online unless clearly identified as being confidential. Where the submission is from an organisation, WorkSafe will publish the organisation's name not the author's name.

<b>Does your submission contain personal information of any third party individual/s?*</b>	<input type="checkbox"/> Yes	<b>If yes, have you obtained consent from the third party individual/s to include their personal information in your submission?</b>	<input type="checkbox"/> Yes
	<input checked="" type="checkbox"/> No		<input type="checkbox"/> No

**Note:** If you have not obtained consent from the third party individual/s, WorkSafe may elect not to publish your submission or may redact third party information from your submission.

<b>Can WorkSafe contact you about your submission?*</b>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
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**Note:** WorkSafe may use the information you have provided to inform you of further development of the proposed regulations.

## Proposed Occupational Health and Safety Amendment (Crystalline Silica) Regulations 2021

Please provide your comments on the proposed Occupational Health and Safety Amendment (Crystalline Silica) Regulations 2021 below. Where possible, please indicate the section you are commenting on. General comments about the regulations are also welcome.

### General comments

Dennis Family Homes (DFH) is one of the leading builders of residential houses in Victoria. DFH take their OH&S responsibilities very seriously, employ specialised OHS personnel and make all efforts to comply with their legal obligations as well as continually improve safety standards and methods on construction sites.

DFH is also a member of the Victorian Volume Home Builders Safety Alliance (VVHBSA) and as such are working with other volume builders and stakeholders to improve OH&S performance in the domestic construction sector.

DFH support the submission made by the VVHBSA. The VVHBSA have established a working group with the support of industry associations and have been in discussion with the WorkSafe Crystalline Silica team to conduct a study into the impact of crystalline silica exposure in the housing construction industry. Unfortunately COVID19 has delayed the opportunity for these stakeholders and the Regulator to undertake this study which we recommend is completed before the proposed Crystalline Silica Regulations are put into effect.

Class H vacuums are not required in every instance, the specification of required equipment should be in this information should be supplied by the manufacturer or supplier, with any deviation from the manufacturer or supplier information, be supported by a hygienist report to allow for performance-based solutions. There is an existing hygienist report showing Class M vacuum cutting Hebel panels outside is under the exposure standard.

Licensing should not be implemented as it will create additional red tape and expense to Employers and to Workers, with little to no real benefit. Currently, OHS legislation already imposes a duty to assess, inform, train, and supervise and the addition of licensing will be costly, unnecessary and burdensome.

It must be the responsibility of the supplier or manufacturer to provide information relating to their product. They are aware of its uses and already provide instruction on installation, manufacturing standards and for the most part, work closely with the installers of their product. It must be their responsibility to provide risk assessments on the use and handling of their product for the more common uses, in the same way plant regulations instil this responsibility with plant equipment. Where the product is used outside the typical product scope of use, then it should be the employer or sub-contractor responsibility to provide the risk assessment.

We must as a priority understand the scope of the problem and then ensure appropriate controls are in place to protect people. One aspect is to consider the actual make up of engineered stone and whether its silica content could be reduced. We currently have regulations that require safe

systems of work along with the “Object” of the Victorian OHS Act. Adding layers of red tape that creates confusion and uncertainty does not necessarily result in the desired outcome.

These Regulations, as supported by the impact statement should be limited to the industries where silica exposure levels are known and not controlled effectively as identified in the regulatory impact statement. (e.g.: mining and masonry manufacturing).

### Specific comments

<i>Regulations 1 – 5</i>	Click here to enter text.
<i>Part 4.5 – Crystalline silica Division 1 – Introductory matters</i>	<p>319C (a) A crystalline silica manufacturing process that includes.....</p> <p>319C (c) A crystalline silica manufacturing process that ...</p> <p>319C (g) a process determined by the Authority under regulation 6(1)(oa) to be a crystalline silica process, where exposure standards are exceeded without adequate controls in place.</p> <p>319d (a) It should reference the National exposure standard to reduce confusion</p> <p>319(e) delete the requirement for a hazard control statement and mandate a safe work method statement under high risk works for the engineered stone. Referencing 319C.</p>
<i>Part 4.5 – Division 2 – Duties of manufacturers and suppliers</i>	<p>319g (2) Add, completed by the supplier or manufacture a publicly available hygienist report. It would show exposure rates in variety of common practical working environments. Available via all electronic platforms.</p> <p>319r Delete hazard control statement and add ‘Safe work method statement. Needing to use the existing terminology to avoid confusion in the industry.</p> <p>319u Add, engineered stone manufacturing environments. Mandate air monitoring every X year.</p>
<i>Part 4.5 – Division 3 – Duties of employers and self-employed persons</i>	<p>319I (b)(i) delete and replace with</p> <p>(i) an on-tool dust extraction system as specified by the manufacturer for cutting, grinding or crushing.</p> <p>319P – delete replace with:</p>

	<p>(1) An employer or self-employed person must be able to access information to determine the crystalline silica task may exceed exposure standards.</p> <p>replace (2) the employer or self-employed person must attain from the supplier or manufacturer a risk assessment that must take into account the following—</p> <p>(3) Delete. It is not practicable for an employer or sub-contractor to conduct a risk assessment in accordance with (2) in every instance. This information must be provided by the supplier or manufacturer to set and maintain an industry standard.</p> <p>319Q (1) delete and replace with -An employer or a self-employed person who conducts a risk assessment under regulation 319P must complete a SWMS prior to the commencement of any crystalline silica work.</p> <p>319Q (2) delete</p> <p>319Q (3) delete and replace with - An employer or self-employed person who completes under sub regulation .....</p> <p>319R – delete, addressed with SWMS</p> <p>319S – delete, requirement in the use of a SWMS</p> <p>319T – deleted, addressed with SWMS</p> <p>Division 4 Delete – all proficiency and knowledge requirements are met within the ohs act and in this draft regulation.</p>
<p><i>Part 4.5 – Division 4 – Licensing requirements</i></p>	<p>319z Delete the requirement to be licenced. There is already and existing duty to risk assess, provide information, instruction, training and maintain a safe working environment. Unnecessary regulatory burden.</p> <p>319ZA Delete. Records already kept</p> <p>319ZB Delete. Existing duty</p> <p>319ZC Delete. Existing duty</p> <p>319ZD Delete. Existing duty</p> <p>319ZE Delete reference to “Engineered stone licence”. Mandate air monitoring every X year. This would encourage investment in expensive machinery to safely manufacture engineered stone.</p>

	<p>Levels must be under the national exposure standard</p> <p>319ZF delete. Existing duty to provide a safe system of work and assess risk</p> <p>319ZG Delete. Use the terminology “Safe work method statement. Existing industry vocabulary</p>
<i>Part 4.5 – Division 5 – Transitional provisions – Engineered stone licences</i>	Delete Part 4.5.
<i>Part 6.1 – Licences – Subdivision 6 – Additional provisions in relation to an engineered stone</i>	Delete – Part 6.1, expensive, burdensome and unnecessary.

## Regulatory Impact Statement

### General comments

The regulatory impact statement focuses on the mining and the manufacturing stone masonry industries. Links to other industries are tenuous, this re-enforces the point that initial regulations should be aimed at the two key industries where exposure is a known serious health risk.

Further study is required into other industries to ensure we have either the appropriate information and Regulation that reflect the hazards, combined with information and training to ensure we have the appropriate controls in place.

We must as a priority understand the scope of the problem and then ensure appropriate processes are in place to protect people. We currently have regulations that require safe systems of work along with the “object” of the Victorian OHS Act to protect people. Adding layers of red tape that creates confusion and uncertainty may not result in the desired outcome.

Specific comments	
<i>Executive summary</i>	<p>The goal of any regulation is to improve safety outcomes. Prior to implementing changes to the current Regulations, more research and data is required by the Regulator, and by industry stakeholders to better understand the uses and controls of products containing crystalline silica.</p> <p>As a minimum, these proposed Regulations should focus more on the mining and the manufacturing stone masonry industries, requiring them to provide relevant safety information and controls relating to their product, rather than create an exhaustive onus on 'Employers' to do this.</p>
<i>Part 1 – Background</i>	Click here to enter text.
<i>Part 2 – The problem of silica dust</i>	Click here to enter text.
<i>Part 3 – Options</i>	Click here to enter text.
<i>Part 4 – Impact analysis and preferred option</i>	Click here to enter text.
<i>Part 5 – Preferred option</i>	Click here to enter text.
<i>Part 6 – Cost recovery and fees</i>	Click here to enter text.
<i>Part 7 – Small business and competition impacts</i>	Click here to enter text.
<i>Part 8 – Evaluation strategy</i>	Click here to enter text.
<i>Part 9 – Implementation strategy</i>	Click here to enter text.

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*Occupational Health and Safety Amendment (Crystalline Silica) Regulations 2021 (Proposed Regulations) and associated Regulatory Impact Statement (RIS). Your feedback will be considered and applied to the proposed Regulations and RIS where appropriate.*

*Your submission will be published under your name or, where relevant, your organisation's name on the Engage Victoria website, unless you select the relevant check box to say that you do not wish to have your submission published. Your contact details will not be published regardless of whether you select the relevant check box.*

*You also have the option to provide your submission anonymously. If you do not wish for your name, or organisation's name, to be published with your submission, please select the relevant check box. If you choose to have your submission published, please ensure that individuals are not identified in the content. If you have any questions or would like to learn more about this project, please email [legislation@worksafe.vic.gov.au](mailto:legislation@worksafe.vic.gov.au). To access or correct the information you have provided, please contact [privacy@worksafe.vic.gov.au](mailto:privacy@worksafe.vic.gov.au).*