

Submission form



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

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

Type of submission *	Individual <input type="checkbox"/>	Organisation <input checked="" type="checkbox"/>	
Organisation name (where applicable)	Caesarstone Australia Ltd		
First name *			
Last name *			
Email address *			
Postal address			
Postcode *			
State *	VIC		
Do you consent to WorkSafe publishing your submission?*	<input checked="" type="checkbox"/> Yes – WorkSafe may publish this submission with my name.		
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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

Caesarstone fully supports licensing of this trade and believes it can increase the adoption of risk prevention measures and create safer workplaces.

However, we raise the following general concerns with the proposed regulations:

1. The proposed regulations focus on one type of silica-containing material – ‘engineered stone’. We believe they should address all products – including quartz, granite, marble, sandstone, ceramics – that contain above a certain percentage of crystalline silica, regardless of whether they include resin.
2. The proposed regulation does not address those all PCBUs required to make sure its purpose is achieved. For example, builders and kitchen installation companies whose employees handle stone should also be required to work only with licensed fabricators and stonemasons.
3. If licensing is introduced, we believe the licensing requirements should include independent yearly audits, backed by a clear and detailed process, to ensure compliance. The industry is highly fragmented, with multiple nationalities represented in the workplace. Most fabricators will require clear guidance and independent reviews to ensure compliance.
4. There need to be clear guidelines set out for stone installation and stone installers.
5. Further clarity is required regarding the specific requirements for a ‘control plan’.
6. All requirements for health monitoring and air monitoring need to be specific

Specific comments

Regulations 1 – 5

Section 5(1):

Regarding the definition of “crystalline silica substance”:

“... means any substance that— (a) contains more than 1% crystalline silica; and...”

Using a benchmark of 1% crystalline silica risks capturing products infiltrated by a negligible amount of crystalline silica in the Page 3 manufacturing process – for example in the case of a plant that produces several products.

We believe that a more materiality-based threshold should be

	<p>adopted, such as 5%, if that is supported by hygienists.</p> <p>Regarding the definition of “engineered stone”:</p> <p>“... means a manufactured composite stone material that contains— (a) resins; and (b) 40% or more crystalline silica”</p> <p>We do not see the relevance of including resins. The regulations should apply to all stone products above a certain crystalline silica content, as that is the source of the risks being addressed.</p> <p>For that reason, we believe that the definition in the regulations be “controlled stone” rather than “engineered stone” to reflect the fact that any product with a certain crystalline silica content is controlled by and subject to these regulations.</p> <p>Without this change, there is the possibility that the processing of engineered stone is covered by the regulations and conducted safely but simultaneously in the same fabricator natural stone products with the potential to cause silicosis, such as sandstone, will not be handled in a similarly safe manner.</p> <p>In addition, we believe that the percentage of crystalline silica cited in the regulations should be reduced below 40% to further reduce the risk. Given evidence of cases of silicosis in tradespeople working on natural stone, we propose the relevant percentage be as low as possible.</p>
<p><i>Part 4.5 – Crystalline silica Division 1 – Introductory matters</i></p>	
<p><i>Part 4.5 – Division 2 – Duties of manufacturers and suppliers</i></p>	<p>Caesarstone already provides comprehensive information to its customers regarding the safe handling of its products and is committed to ensuring they have access to all relevant warnings and safety procedures.</p> <p>According to section 319G (c), the manufacturer or supplier must provide information about crystalline silica substances, including “exposure controls, exposure standards, engineering controls and Page 4 personal protection information in relation to the crystalline silica substance”. Some of this information varies from state to state and varies over time, according to the regulators’ decisions.</p>

	In light of the above, and in view of the differences in the regulations in each state, we would propose that manufacturer or supplier be required to refer customers to the local authorities regarding the relevant exposure standards for that jurisdiction rather than being liable for informing customers of the standard itself.
<i>Part 4.5 – Division 3 – Duties of employers and self-employed persons</i>	<p>Section 319N does not discuss water controls or water recycling requirements. Is there a plan to implement monitoring processes these measures?</p> <p>What regulations cover stone product installers? Will installers be required to provide evidence of the controls implemented to comply with 'exposure standards'?</p>
<i>Part 4.5 – Division 4 – Licensing requirements</i>	<p>Section 319ZB states that the supplier must the requirement to keep records for at least five years. We believe that the same obligation should also apply to the employers who are engineered stone license holders, for the same reasons.</p> <p>We would also propose a longer record retention period, to be determined with appropriate health authority advice.</p>
<i>Part 4.5 – Division 5 – Transitional provisions – Engineered stone licences</i>	
<i>Part 6.1 – Licences – Subdivision 6 – Additional provisions in relation to an engineered stone</i>	

Regulatory Impact Statement

General comments	
Specific comments	
<i>Executive summary</i>	
<i>Part 1 – Background</i>	

<p><i>Part 2 – The problem of silica dust</i></p>	
<p><i>Part 3 – Options</i></p>	<p>Regarding section 3.2.1:</p> <p>We believe options two and three would be less effective than option one.</p> <p>Caesarstone is of the opinion that the best way to stop the existing unsafe work practices is to support a ban on trading by unlicensed stonemasons – i.e. a mandatory licensing regime. All stonemasons should be required to obtain a licence to trade, similar to the highrisk work licence regime.</p> <p>We believe that option one should also apply to other key stakeholders, such as builders (contractors) and kitchen and bath installation companies, to ensure they can only trade with licensed stonemasons.</p> <p>Regarding section 3.2.2:</p> <p>In any scenario, the prohibition of dry cutting of engineered stone must be retained in WHS regulations. That said, the prohibition of dry cutting alone is not enough, and the package of reforms in the proposed regulations (appropriately adapted) must be adopted in the interest of keeping workers safe.</p> <p>Regarding section 3.3.1: Page 6</p> <p>We agree that a ban on the supply and use of engineered stone is not feasible as it discriminates against just one or many stone products containing crystalline silica. In addition, there is no justification in a banning a product that can be used safely for consumers and safely for workers, provided proper handling techniques are followed.</p> <p>We will not see a decrease in the silicosis cases if stonemasons continue to perform unsafe and uncontrolled work practices relating to fabricating all silica-containing stone.</p> <p>Caesarstone believes we will see a significant decline in silicosis if PCBUs and stonemasons are accountable by law to implement safer work practices, regardless of the stone product being handled.</p>
<p><i>Part 4 – Impact analysis and preferred option</i></p>	<p>Regarding section 4.3.2.1 - Costs to stonemason businesses:</p> <p>It is possible that a stonemasonry business would require some level of investment to meet the proposed regulatory requirements.</p>

	<p>The RIS does not fully address those potential financial impacts, or what provisions may be available for business owners to comply with standards.</p> <p>However, as evident around the world, even with these required investments, stonemasonry remains a viable business model at a certain size and scale.</p> <p>It is possible that some consolidation could occur in Australia as a result of the proposed regulations. However, operating a safe workplace should be a fundamental component of the cost of doing business.</p>
<i>Part 5 – Preferred option</i>	Caesarstone believe that if this option is mandated, it should applied to broader industry sectors where silicosis is a potential risk and not only to stonemasons.
<i>Part 6 – Cost recovery and fees</i>	
<i>Part 7 – Small business and competition impacts</i>	
<i>Part 8 – Evaluation strategy</i>	
<i>Part 9 – Implementation strategy</i>	Caesarstone agrees that regulated enforcement, monitoring and inspections are crucial for achieving a safer workplace.

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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.

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