

# 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)	Master Builders Victoria	
<b>nataFirst name *</b>		
<b>Last name *</b>		
<b>Email address *</b>		
<b>Postal address</b>	Click here to enter text.	
<b>Postcode *</b>		
<b>State *</b>	VIC	
<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

Safe Work Australia are meeting this week to discuss regulatory reform and national licensing. Licensing regime needs to be consistent. Making certain obligations compulsory rather basing regulation on performance leads to tick a box compliance rather than industry lead reform.

National dust disease task force is also reviewing all these issues. Findings from stakeholder engagement are not due until end of June. It would be prudent to factor this into considerations, rather than roll out a licensing regime that's inconsistent with the commonwealth. It is interesting to note the NSW Government has recommended against implementation of a licensing scheme as part of their submission.

Definition of engineered stone reduced to 40% where it is more commonly accepted to have 80% as the threshold. It is not clear that this is a well informed decision and inconsistent with other jurisdictions.

The RIS has not given due consideration on the impact on the construction industry, in particular the smaller suppliers. It grossly underestimates the number of construction businesses that are likely to impacted by licencing and the extent of work impacted by the definition of high risk crystalline silica work.

Who has determined that action needs to be taken at half of the exposure standard? This is unfounded and has not been established as a mandated trigger point nor is an accepted best practice. It is unrealistic to expect compliance. Other jurisdictions are not compelling monitoring of the WES (forget about half the WES). The AIOH recommends that where there is a continued likelihood of 50% of the exposure standard being exceeded, exposure monitoring and health surveillance should apply. Noting, however, the paper was drafted when the WES for Silica was 0.1 mg/m<sup>3</sup>. It is also important to note that the AIOH supported maintaining the WES of 0.1 mg/m<sup>3</sup>.

Measuring half of the new exposure standard does not seem practicable given the difficulties measuring this in any environment outside a controlled environment. The equipment needed to measure the full exposure standard is not readily available and can be an expensive process. The impact of this is also not known as there are many materials used on site that contain crystalline silica that may now need monitoring.

With an indicative cost of \$3000-\$4000 to engage a specialist for monitoring. There are many activities on construction sites that might need monitoring (i.e. cutting of materials other than engineered stone).

Industry doesn't need additional regulation, it needs help improving and implementing available

<p><b>control measures.</b></p> <p>The industry would also benefit from research into common products, the way they are handled and safe practices for the industry such as minor and irregular works on site. This may be in the form of WorkSafe guidance material.</p>	
<p><b>Specific comments</b></p>	
<p><i>Regulations 1 – 5</i></p>	<p>Query regarding the definition of engineered stone. Previous definition was 80% crystalline silica, reduced to 40% in the proposed regs</p>
<p><i>Part 4.5 – Crystalline silica Division 1 – Introductory matters</i></p>	<p><b>319D(a) Measuring half the exposure standard does not seem practicable given the difficulties measuring this in any environment outside a controlled environment. The equipment needed to measure the full exposure standard is not readily available and can be an expensive process.</b></p> <p><b>The impact of this is also not known as there are many materials used on site that contain crystalline silica that may now need monitoring.</b></p> <p><b>319D(b) risk is a very broad term. Is it likely to encompass all scenarios not covered by 319D(a), what level of risk is acceptable?</b></p> <p><b>319E Suggest a statement that this could be covered by SWMS, subject to 319E(a) and 319E(d) being met (as per 319R(3))</b></p>
<p><i>Part 4.5 – Division 2 – Duties of manufacturers and suppliers</i></p>	<p>Click here to enter text.</p>
<p><i>Part 4.5 – Division 3 – Duties of employers and self-employed persons</i></p>	<p><b>319N This would also be subject to monitoring requirements under 319D and likely to be high risk crystalline silica work</b></p> <p><b>319P If it is not possible or readily available for a duty holder to measure half the workplace exposure standard, this implies that it must be considered high risk crystalline silica work.</b></p> <p><b>319P We anticipate that a large number of tasks on a construction site will require this risk assessment process</b></p>
<p><i>Part 4.5 – Division 4 – Licensing requirements</i></p>	<p><b>319Z How would this apply at a construction site? Would a principle contractor be required to hold a license? Engineered stone processes are conducted at that worksite but are by a specialised contractor. I don't believe it to be the intent that all</b></p>

	<p>principle contractors would require the license, merely the employer performing the work.</p> <p><b>319ZE(b) Suggest a frequency for atmospheric monitoring</b></p> <p><b>319ZJ suggest removal of licensing. The change of definition of engineered stone introduces significant administrative controls and ongoing financial costs when focus should be on higher levels of control.</b></p> <p><b>319ZJ(2) Suggest a longer period for applications to be submitted. Significant education and awareness programs will be required for all applicable duty holders to be informed. There is a significant amount of paperwork and highly sought after expensive equipment that needs to be established as part of this application. Financial support (such as the ATV replacement program) for these upgrades would be encouraged.</b></p>
<p><i>Part 4.5 – Division 5 – Transitional provisions – Engineered stone licences</i></p>	<p>Click here to enter text.</p>
<p><i>Part 6.1 – Licences – Subdivision 6 – Additional provisions in relation to an engineered stone</i></p>	<p>Click here to enter text.</p>

## Regulatory Impact Statement

<p><b>General comments</b></p>
<p>The RIS notes that through its break-even analysis, if the regulations are applied to a narrower construction cohort or only stonemasons, the breakeven point is more likely to be achieved. It also notes that should licensing and the full package of reforms be implemented, the costs associated with it will be disproportionate to the construction industry relative to where the known costs of silicosis currently exists. As such, it remains perplexing that the RIS nevertheless recommends the introduction of licensing and the full package of reforms, regardless if this is</p>

under the basis that it is best to take a precautionary approach.

Further understanding of the scope of the impact of silicosis in other industries is required first to ensure that proportionate and efficient measures can subsequently be implemented for such industries. Having a blanket approach will merely cause unnecessary regulatory burden.

### Specific comments

<i>Executive summary</i>	Click here to enter text.
<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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*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).*