

# 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)	VBG	
<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	
<p>We thoroughly welcome the introduction of the engineered stone licencing scheme and we were proponents of such a scheme even before it was announced. When the former Parliamentary Secretary for Workplace Safety The Hon. Natalie Hutchins visited our facility in Feb 2020 we strongly advocated for the introduction of such a scheme.</p> <p>The main overall comment we would like to make about the proposed regulations is that we are disappointed that there is no guidance or recommendation or requirement for engineered stone fabricators to move away from unsafe manual practices such as manually cutting sink and basin cut-outs with a hand tool by instead using technology such as waterjet and CNC machines or manually polishing edgework by instead using automated edge polishing machines, rather, it only provides for mitigating risk using weaker control measures such as LEV, Class H vacuums and respiratory PPE. This continues the trend of direct exposure to employees when there are alternative methods using fixed machinery.</p> <p>We, along with our German machinery manufacturer and our SilicaSafe process, have proven that there is no need to continue reliance on such unsafe manual processes when safer alternatives exist.</p>	
Specific comments	
<i>Regulations 1 – 5</i>	Click here to enter text.
<i>Part 4.5 – Crystalline silica Division 1 – Introductory matters</i>	<p>There is a very vague interpretation of “engineered stone process” as “a process involving engineered stone at a workplace that generates crystalline silica dust, including cutting, grinding or abrasive polishing of engineered stone.”.</p> <p>This seems to attribute the same weight of risk to someone “cutting stone” on an automated plant as a machine operator, many metres away, to someone cutting a benchtop out using a hand grinder right in front of them. We believe that there should be a clear distinction in these definition to account for these two very different situations and how the risks to each are to be mitigated rather than having them in one pool.</p> <p>Similarly, the point of the definition of "crystalline silica process"</p>

	<p>includes "the use of a power tool or other form of mechanical plant to "cut, grind, polish or crush material containing crystalline silica".</p> <p>The use of "a power tool OR other form of mechanical form of plant" in one definition is also making no distinction between use of highly automated and expensive plant to keep the operator away from the process and a worker directly using a handheld power tool to cut into stone right in front of them.</p> <p>The definition of "high risk crystalline silica work" is listed as "work performed in connection with a crystalline silica process that is reasonably likely to result in an airborne concentration of respirable crystalline silica that exceeds half the exposure stand for respirable crystalline silica or is a risk to the health of a person to the workplace". If the "crystalline silica process" definition is used in a general sense again there must be distinction made between how each process is done.</p> <p>"Cutting stone" could be either using highly automated machinery or using a hand grinder, each providing a different level of exposure and a different level of risk to the health of a person. If a fabricator can show that exposure levels for all processes in the factory are all under half the exposure standard for RCS does that mean that no crystalline silica hazard control statement is necessary as there is no "high risk crystalline silica work".</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>We believe that in Subdivision 1 - 319I - (1)(b), the continued acceptance of on tool dust extraction systems when dealing with engineered stone is incorrect, that our industry must move to only wet suppressed tooling. The fact is that wet suppressed hand tools technology is readily available both in factory and on site and there should be no excuse to not use this and rely on capturing dangerous dry dust.</p> <p>Point (1)(c) is also dangerous, point (a) and (b) should always be reasonably practicable when dealing with engineered stone and LEV should not be relied on!</p> <p>Regarding point (2)(b) "(b) if the system uses recycled or recirculated water, adequately treat that water" the definition of adequately treat needs to be very specific. If treated with a chemical such as coagulant and flocculant, which is common practice in our industry, this should not be used for water suppression on power tools due to exposure to the employee of such chemicals. We</p>

	<p>believe in this case fresh water must be used in these situations.</p> <p>319, point (1) states "An employer must ensure that an employee who undertakes an engineered stone process is provided with respiratory protective equipment"</p> <p>and point (2) states "An employer must ensure that an employee uses the respiratory protective equipment provided under subregulation (1)". Following on from our above comments stating that the definition of "engineered stone process" is too broad and groups together "cutting stone" using handheld machinery and operating highly automated machinery from a control panel far away with two very different risk profiles and exposure levels to the employee, we believe that broadly requiring the use of respiratory PPE is incorrect, especially if the fabricator can show silica dust exposure levels well below the standard associated with that process.</p> <p>Reliance and use of respiratory PPE all shift comes with its own problems with employees complaining about heart issues and dizziness from wearing it constantly, especially when employing wet methods of production that blocks the filters, which we believe should not be necessary if there is no significant risk to the employee.</p> <p>The current wording of this RPE requirement is an unrealistic, unnecessary burden on employees and employers if it can be shown to be an entirely safe process.</p>
<p><i>Part 4.5 – Division 4 – Licensing requirements</i></p>	<p>Very much agree with the fact that the health monitoring must be conducted by a specialist occupational and environmental physician means a registered medical practitioner who is a fellow of the Royal Australasian College of Physicians, Australasian Faculty of Occupational and Environmental Medicine.</p> <p>Our health monitoring program is currently run by a fellow of the AFOEM.</p> <p>Are there any employee health privacy concerns with providing health monitoring reports to the Authority?</p> <p>Do we need to request consent for this information to be transferred?</p> <p>We believe this is a complicated area that needs further instruction/guidance before it is implemented.</p> <p>Regarding the Statement of work to be provided to former</p>

	<p>employees, is there a particular format in which this should be sent.</p> <p>Is an email sufficient as most time postal details can be incorrect and not able to be delivered, making this requirement less effective.</p>
<i>Part 4.5 – Division 5 – Transitional provisions – Engineered stone licences</i>	Click here to enter text.
<i>Part 6.1 – Licences – Subdivision 6 – Additional provisions in relation to an engineered stone</i>	Click here to enter text.

## Regulatory Impact Statement

<b>General comments</b>	
Click here to enter text.	
<b>Specific comments</b>	
<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>	Regarding the following section "Employee representatives have noted that dry cutting anecdotally occurs during on-site installation in instances where small adjustments or trimming is required. Businesses have stated that it is often very costly, in terms of time and labour, to return large pieces of engineered stone to their factories where appropriate control measures are in place. It is businesses who often bear the full burden of these costs, having not factored them into their initial quotes in order to remain competitive.

	<p>As a result, businesses may be financially motivated to improvise and engage in poor techniques under such circumstances. Industry stakeholders have noted that this impacts small businesses disproportionately, whereas larger employers with greater resources, tools and processes are better equipped to react appropriately in line with regulations." we have the below comments:</p> <p>The major cause or reason for this argument is poor and/or inadequate time spent measuring the benchtops on site prior to manufacturing and then not having the correct technologies, such as waterjet technology, in the facility to complete this successfully without having to rely on site work.</p> <p>Proper pre production and the correct machinery in the facility can avoid having to do any onsite adjustments or "trims" almost entirely.</p> <p>There are also methods to complete these on site works using wet processes that are cost effective and easy to implement for installation teams.</p>
<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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collected by WorkSafe for the purpose of identifying and responding to your comments or submission on the proposed 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).