

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)	Work and Health Risk Management	
First name *	Click here to enter text.	
Last name *	Click here to enter text.	
Email address *	Click here to enter text.	
Postal address	Click here to enter text.	
Postcode *	Click here to enter text.	
State *	Choose an item.	
Do you consent to WorkSafe publishing your submission?*	<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.

Does your submission contain personal information of any third party individual/s?*	<input type="checkbox"/> Yes	If yes, have you obtained consent from the third party individual/s to include their personal information in your submission?	<input type="checkbox"/> Yes
	<input 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.

Can WorkSafe contact you about your submission?*	<input 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>I support the proposed licencing scheme, however two significant concerns remain.</p> <p>These relate to:</p> <p>(A) the practicalities and legal access to the collected health information necessary for longitudinal health monitoring by medical practitioners for (i) workers who remain in the identified industry sectors but who migrate between employers, (ii) those workers who leave an employer after undertaking high risk work. This requires a scheme that enables access to, and transportability of, health information collected by the supervising medical practitioners overseeing the health monitoring activity for any specific employer or sole trader by other supervising medical practitioners and general practitioners. The scheme needs to provide the appropriate standards and authority for the confidential collection, storage, access and management of the confidential health information; and</p> <p>(B) the competency of employers and sole traders to undertake an adequate risk assessment to determine if they might fall within the definition of “high risk crystalline silica work”. The present framework enables non-medically qualified persons to evaluate "a risk to health" which historically has been fundamentally deficient.</p> <p>Recommendations are included below and referenced against the relevant Part of the proposed legislation.</p>	
Specific comments	
<i>Regulations 1 – 5</i>	Click here to enter text.
<i>Part 4.5 – Crystalline silica Division 1 – Introductory matters</i>	Click here to enter text.
<i>Part 4.5 – Division 2 – Duties of manufacturers and suppliers</i>	"Clause 319D defines what is “high risk crystalline silica work” and relies on the “reasonably likely” test to assess whether: Airborne concentration of respirable crystalline silica greater than half the exposure standard, OR, a risk to health exists. If an employer or sole trader is NOT involved in an engineered stone process or a process defined under the provisions of Clause 319C , Subdivision 2, subclause 319P (1) imposes a duty to carry out a risk assessment

	<p>to determine if a high risk process exists; and Subclause (2) identifies what should be taken into consideration.</p> <p>While sub-subclause (f) identifies “illnesses or diseases associated with crystalline silica dust”, there is no requirement to obtain the relevant information from an appropriate source. This leaves open the possibility that the employer or sole-trader may be mis-informed about the risk, still meet their regulatory requirements, but inadvertently place workers at risk of high risk crystalline silica work.</p> <p>Recommendation (A): A suitable qualified medical practitioner (e.g. a Consultant Physician in Occupational and Environmental Medicine) must be consulted as a fundamental requirement of an adequate risk assessment.</p> <p>No other profession has the relevant qualifications to advise on the established or emerging “health risks”. With respect to the valuable role provided by occupational hygienists, occupational therapists, and nurses who practice in occupational medicine, they rely on their interpretation of advice provided by suitably qualified Occupational Physicians. Occupational Physicians are Fellows of the RACP’s Australasian Faculty of Occupational and Environmental Medicine and are the only professionals regulated by an independent body (AHPRA) to be considered qualified to provide such advice.”</p>
<p><i>Part 4.5 – Division 3 – Duties of employers and self-employed persons</i></p>	<p>“319ZD Requires health monitoring to be conducted under the supervision of a specialist occupational and environmental physician. This is highly appropriate and supported for the reasons detailed above.</p> <p>However, general practitioners will often be the first point of contact of a concerned worker. When assessing the needs of their patient, GP’s need independent access to the supervising medical practitioner responsible for the health monitoring of (i) continuing workers, and importantly (ii) the supervising medical practitioner of a worker who may no longer be working for an employer who was undertaking high risk crystalline silica work. Such access (a) needs to be enabled by legislation to facilitate timely access to critical information and not be reliant on someone asking for</p>

	<p>specific consent, (b) avoid duplication of expensive and time consuming investigations, and (c) enable ongoing serial health surveillance, which can also (d) underpin timely and appropriate specialist referrals in support of the health needs of a worker exposed to respirable crystalline silica.</p> <p>Recommendation (B): The licensee / license applicant, be required to notify the regulator of the identity, contact details, and qualifications of their supervising medical practitioner (information which could also be used as a compliance data check point). While this should include all supervising medical practitioners servicing any sector identified by 319C, this could be considered an amendment to Clause 472B Additional information to be included in an engineered stone licence application. And ...</p> <p>Recommendation (C): The regulator maintain a public register of the licence holders and their supervising medical practitioner/s. Note, this register would provide an opportunity to validate by Manufacturers and Suppliers they are providing their product only to licence holders (as per Clause 319ZA).</p> <p>Recommendation (D): That statutory authority be given to enable supervising medical practitioners to share personal health information between registered supervising doctors, any authorized disease register, and on request from treating medical practitioners (GP's and specialist); with only statutory prescribed (and hence limited) information being provided by the supervising medical practitioner to either the employer or the regulator."</p>
<p><i>Part 4.5 – Division 4 – Licensing requirements</i></p>	<p>Click here to enter text.</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>See recommendation (B) in response to Part 4.5 Crystalline silica – Division 4 – Licensing requirements</p>

Regulatory Impact Statement

General comments	
Click here to enter text.	
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. To access or correct the information you have provided, please contact privacy@worksafe.vic.gov.au.