

# 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><br>(where applicable)                 | VTHC   |  |
| <b>First name *</b>  |  |  |
| <b>Last name *</b>   |  |  |
| <b>Email address *</b>   |  |  |
| <b>Postal address</b>  |  |  |
| <b>Postcode *</b>  | 3000   |  |
| <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 checked="" 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 |
|---|---|-----------------------------|

**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

On behalf of VTHC and our affiliates, we welcome the opportunity to provide comment on the proposed Regulations. The trade union movement supports the increased regulation of silica and the use of engineered stone. VTHC makes the following comments for your consideration and response. The exposure standards in Victoria are linked to the SafeWork Exposure Standard of 0.05mg/m<sup>3</sup>. WorkSafe's own website recommends that employers reduce employees' exposure to below 0.02 mg/m<sup>3</sup> as an 8-hour TWA to prevent silicosis and minimise the risk of lung cancer. VTHC supports a lower exposure standard of 0.02 mg/m<sup>3</sup>, with a view to phasing the use of engineered stone out completely.

There have been some 335 claims in Victoria relating to silica exposure. The average worker age is approximately 43 years old. Silica is categorised as a class 1A carcinogen. There will be future claims and deaths. WorkSafe is in a unique position to mandate a lower exposure standard, consistent with its own recommendations, not only saving the compensation scheme money but preventing future industrial illness and avoidable workplace fatalities. In relation to Section 319C of the proposed Regulations we note that several types of work are listed, such as tunnelling and quarrying processes.

Subregulation (c) more broadly covers processes that exposes a person to crystalline silica dust arising from the manufacture or handling of material that contains crystalline silica. We seek confirmation that this covers foundry processes. If there is any doubt or ambiguity we would seek that foundry processes are covered by their own specific subregulation.

The proposed Regulations specifies two particular types of monitoring the employer must conduct. We seek that the Regulations give more specifics to ensure usable data and proper compliance consistent with the spirit of the obligation.

Specifically:

Atmospheric Monitoring – Whilst the Engineered Stone Compliance Code (“the Compliance Code”) states that air monitoring needs to be conducted in a way that ensures sufficient samples are collected to be truly representative of the usual employee exposure levels in the workplace it is our view this could be better clarified. It is our view that

the Regulations should state that monitoring must be continuous over the course of the work. Not only will this allow employers to properly assess the time weighted average of the exposure, it will also prevent less scrupulous employers from taking measurements at times of the day, or days of the week, when silica dust levels are lower.

Health Monitoring – how often are health tests of employees required?

We note that Regulations pertaining to asbestos (at r 262(3)) require medical examinations before commencing work and then at not more than 2 years intervals. The Compliance Code at paragraphs 222-223 states that a baseline reading should be taken at the commencement of employment but that the frequency of regular monitoring will be determined by the medical practitioner. It is our view that a similar explicit obligation on the frequency of testing be required in the silica Regulations.

Our final concern relates to enforcement of these new Regulations to ensure widespread compliance. Put simply, these new standards must be properly and rigidly policed. There can be little tolerance of employers who fail to abide by their regulatory obligations. Ignorance of the law is no excuse and the scheme will only benefit from rogue employers being prosecuted and removed from the industry.

### Specific comments

|  |                           |
|--|---------------------------|
| <i>Regulations 1 – 5</i>   | Click here to enter text. |
| <i>Part 4.5 – Crystalline silica<br/>Division 1 – Introductory matters</i>                 | Click here to enter text. |
| <i>Part 4.5 – Division 2 – Duties of<br/>manufacturers and suppliers</i>                   | Click here to enter text. |
| <i>Part 4.5 – Division 3 – Duties of<br/>employers and self-employed<br/>persons</i>       | Click here to enter text. |
| <i>Part 4.5 – Division 4 – Licensing<br/>requirements</i>                                  | Click here to enter text. |
| <i>Part 4.5 – Division 5 – Transitional<br/>provisions – Engineered stone<br/>licences</i> | Click here to enter text. |

*Part 6.1 – Licences – Subdivision 6  
– Additional provisions in relation to  
an engineered stone*

Click here to enter text.

## 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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**Collection statement:** WorkSafe collects and handles personal information in accordance with Victorian privacy laws and principles, as well as its Privacy Policy. You can access WorkSafe's Privacy Policy [here](#). Your name and contact details are 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).