

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)	Cement Concrete & Aggregates Australia		
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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Does your submission contain personal information of any third party individual/s?*	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	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
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.			
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Note: WorkSafe may use the information you have provided to inform you of further development of the proposed regulations.			

SUBJECT: PROPOSED OHS AMENDMENT (CRYSTALLINE SILICA) REGULATIONS 2021

Cement Concrete & Aggregates Australia (CCAA) welcomes the opportunity to provide a submission to WorkSafe Victoria on the Proposed OHS Amendment (Crystalline Silica) Regulations 2021.

CCAA is the peak industry body for the heavy construction materials industry in Australia including the cement, pre-mixed concrete and extractive industries.

Our members operate cement distribution facilities, concrete batching plants, hard rock quarries and sand and gravel extraction operations throughout Victoria.

For your information, a list of CCAA Victoria's members is provided in Appendix 1. CCAA members nationally account for 80% of total industry output, with the industry generating \$15 billion per annum in revenue, employing 30,000 Australians directly and supporting the employment of a further 80,000 people.

CCAA members produce and supply the heavy construction materials that are used to construct Victoria's infrastructure. Providing both the raw material and finished product, heavy construction materials contribute to the construction of our homes, roads, railways, bridges, ports, airports, hospitals, and schools. CCAA's members service local, regional, and national building, construction and infrastructure markets.

The reliable, safe and cost-effective supply to these markets is fundamental to sustainable growth and it is CCAA's aim to promote policies that recognise the importance of these materials to Victoria's sustainable and healthy future. CCAA supports the duty of care our members have to keep their people safe by implementing risk-based regulations that are proportionate, practical and effective in maintaining a healthy and safe workplace as far as reasonably practicable.

Like the Victorian Government, our industry is committed to reducing worker exposure to RCS. Like other sectors, our industry has been on a journey over many years to reduce worker exposure to RCS, as evidenced by the production of the CCAA Workplace Health & safety Guideline, Management of Respirable Crystalline Silica in Quarries in September 2018, and updated in 2020.

This national document is widely recognised, including by WorkSafe as the industry standard on this issue. CCAA continues to work closely with international and national jurisdictions to reduce worker exposure to RCS. Successful management of this risk requires clear and consistent application of regulations that articulate effective controls to reduce risk as far as reasonably practicable.

Page 2 of 4 To ensure this is delivered in Victoria, CCAA provides the following comments on the Proposed OHS Amendment (Crystalline Silica) Regulations 2021:

General comments:

There is significant additional administrative burden and associated costs to implement these proposed Regulations across not only the quarrying, but also the manufacturing, road surfacing activities (e.g., profiling), building and civil construction sectors.

The Regulatory Impact Statement underestimates the administrative cost to industry and does not factor in the cost of implementing the required controls so the real cost: benefit of these Regulations is not truly represented.

CCAA supports the use of respiratory protective equipment as a legitimate control in circumstances where other protective measures are not possible on a hierarchy of control basis.

Clarification is required regarding health surveillance requirements for the proposed high risk crystalline silica work.

Regulations:

319D (a) – More detail needs to be provided on how this is to be determined. As has been adopted by other State and Territory regulators, CCAA recommends that a single exceedance does not trigger an official exceedance and that a statistically significant number of samples needs to be considered. Clarity on whether all tasks and all SEGs need to be measured is required.

319D (a) - CCAA remain concerned about the veracity of a trigger point of half the exposure standard for respirable crystalline silica being considered the definition for high risk crystalline silica work. When longer shifts of more than 8 hours are considered, the Time Weighted Average (TWA) for the exposure standard is further reduced, implying the trigger point for half the exposure standard is further reduced. This brings the trigger point close to or under the level of detection of RCS for the majority of current monitoring equipment.

If industry and the regulator cannot measure compliance it creates uncertainty for both parties and risks undermining the regulatory regime.

Such a low trigger also has the potential to capture a wide range of quarry-based tasks/roles into the high-risk crystalline silica work definition. This has the potential to dilute the health and safety efforts away from the true higher risk roles in an effort to accommodate the requirements of the Regulations.

In determining the trigger point, WorkSafe needs to consider that the current regulatory approach with a TWA exposure standard of 0.05mg/m³ for RCS is accepted by professional bodies such as AIOH and all other jurisdictions, in particular those with large mining industries such as Queensland, Western Australia and New South Wales as more than adequate and rigorous enough to manage respirable silica risk.

319D (b) - 'a risk to health of a persons at the workplace' is too broad a definition for high-risk work. This term needs to be more accurately defined as the current wording is unquantifiable and open to wide interpretation and regulatory uncertainty.

319E – This clause should include the requirement to review or verify the controls are working and include a plan for when controls fail. • 319G – Greater clarity on the type of materials and the form of the information will be required to be included in the Compliance Code to guide industry.

319H – The requirement for the revised silica statement to be provided to all previous customers over the previous 5 years is a very high administrative burden and practically difficult to implement.

CCAA recommends that manufacturers or suppliers are required to only make the revised silica statement publicly available, e.g., on their website, and not notify all previous customers over the previous 5 years individually.

319P (1) - The risk assessment needs to include at risk work groups or similar exposure groups.

319P (2) – Greater clarity on how the atmospheric monitoring data is to be used in the Risk Assessment is required, e.g., single samples vs statistically significant number of samples, static

sampling vs personal sampling or real time monitoring. This detail should be developed in consultation with industry and included in the Compliance Code.

319P (3) - It is unclear what this clause means in practice and requires clarification. Does this include Review of Controls as in Regulation 164?

319U – Clarity is required on the frequency and representative nature of the testing and how different areas of the quarry will be addressed, e.g., overburden versus unweathered material.

319W - Clarity is required on the information to be provided to job applicants. Is this just for successful candidates or is it for all job applicants?

As it currently reads, it is for all job applicants which poses a high administrative burden. There may be 100 applicants for one role. This seems to be a disproportionate requirement.

CCAA expects many of these issues will be addressed in the proposed Compliance Code.

CCAA recommends WorkSafe works closely with industry in developing this Compliance Code to ensure an efficient and effective risk-based regulatory regime is put into practice that delivers a healthy and safe work place.

Victoria's regulatory environment needs to be internationally competitive to continue to attract capital to invest into Victoria to ensure a safe, sustainable and competitive heavy construction materials industry. This in turn facilitates Victoria's improved productivity, housing affordability and lower infrastructure costs.

The provision of affordable heavy construction materials through an efficient and safe supply chain helps to facilitate the delivery of affordable infrastructure, contributing to the completion of Victoria's Big Build within budget.

There is no more important time than now for the construction sector, supported by an efficient heavy construction materials supply chain, to provide the engine to rebuild Victoria's post COVID economy and create jobs.