SUBMISSION

Public consultation on the prohibition on the use of engineered stone

Instructions

To complete this online submission:

- Download and save this submission document to your computer.
- Use the saved version to enter your responses under each question below. These questions are from the public consultation on the prohibition on the use of engineered stone.
- Once you have completed your submission, save it and upload it using the upload your submission link on the Engage submission form.

Submissions will be accepted until 11.59 pm on 2 April 2023.

Additional documentation

Up to three additional documents can also be uploaded when you submit your response. Relevant documents to upload could include cover letters or reports with data and evidence supporting your views.

Help

If you are experiencing difficulties making your submission online, please contact us at occhygiene@swa.gov.au.

Respondents may choose how their submission is published on the Safe Work Australia website by choosing from the following options:

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Please note the following are unlikely to be published:

- submissions containing defamatory material, and
- submissions containing views or information identifying parties involved in hearings or inquests which are currently in progress.

Your details

(Please leave blank if you wish to remain anonymous)

1. Name or organisation

Australian Manufacturing Workers' Union

2. Email used to log into Engage

[redacted]

Consultation questions

1. Do you support a prohibition on the use of engineered stone? Please support your response with reasons and evidence.

The AMWU supports a prohibition on the use of engineered stone. Research suggests that the banning engineered stone would save lives - almost 100 lung cancers and a thousand silicosis cases could be prevented[1]. This level of death and diseases is 100% preventable and to allow it in the pursuit of profit unforgiveable.

The National Dust Diseases Taskforce own report stated "*Reform is urgently required. There is evidence to suggest that nearly one in four engineered stone workers who have been in the industry since before 2018, are suffering from silicosis or other silica dust related diseases. Existing WHS regulatory frameworks have not effectively protected people working with engineered stone*".

Across Australia every jurisdiction has attempted to implement some form of education, or guidance, or regulation, or licence. But none of these in isolation or working symbiotically have been enough to stop the exposure to workers to hazardous levels of RCS generated from engineered stone.

2. If yes, do you support a prohibition on the use of all engineered stone irrespective of its crystalline silica content? Please support your response with reasons and evidence.

The AMWU supports a prohibition on the use of all engineered stone irrespective of its crystalline silica content. The consultation paper explicitly states, "Safe Work Australia is not aware of evidence that 40% crystalline silica content represents the threshold between lower risk and higher risk engineered stone products. The additional regulation agreed by WHS ministers of all silica-containing materials (Option 5a of the Decision RIS) recognises that materials containing less than 40% crystalline silica still pose a risk to workers. This is evident in the silicosis cases in stonemasons who work with natural stone".

Likewise, the AMWU is not aware of any evidence establishing a 40% threshold being an healthy level of silica content.

We note that SWA as with many other organisations are signatory to the Consensus Statement Health Benefits of Good Work. This initiative is often leaned upon with regards to workers compensation,

[1] https://www.curtin.edu.au/about/wp-content/uploads/sites/5/2022/07/FEFreport_formatted.pdf

particularly when trying to compel (the mythical recalcitrant) injured workers to return to the workplace as part of their recovery.

Yet there is nothing in the initiative which suggests it's limited to injured workers, rather it is equally a preventative document with good work being defined as,

Good work is engaging, fair, respectful and balances job demands, autonomy and job security. Good work accepts the importance of culture and traditional beliefs. It is characterised by safe and healthy work practices and it strikes a balance between the interests of individuals, employers and society. It requires effective change management, clear and realistic performance indicators, matches the work to the individual and uses transparent productivity metrics.

Exposure to RCS above a health-based workplace exposure standard to protect from chronic exposure will never meet the definition of good work.

The evidence as presented by the ACTU is compelling. *The risks of respirable crystalline silica have been known for centuries. Unfortunately, the health outcomes and medical and scientific evidence indicates that the dusts from processing engineered stone are materially different from the RCS generated when processing natural stone. The RCS generated during processing of engineered stone slabs results in aggressive forms of silicosis. Researchers have noted that there is a difference in the level and type of dust generated from processing engineered stone and natural stone.* [2] *The current research suggests that the morphology of the silica dust produced is materially different to silica dust produced whilst mining for example. It appears that the silica particles produced form engineered stone worker are of different shape, considerably smaller dimensions and finer RCS is produced. These factors contribute to a different inflammatory response* [3]*{selective macrophage response].*[4]

Too many Australian workers have been adversely affected due to their exposure to RCS from engineered stone. To makeup a false ceiling for silica content in engineered stone with absolutely no scientific evidence to appease a niche and substitutable part of the building fashion industry should be unthinkable. Australia, specifically its governments must elevate the value of workers lives from where it has sunk and due to the current uncertainty adopt the precautionary principal, that being the product is banned until such time as evidence can be provided that it is not harmful.

3. If no, do you support a prohibition of engineered stone that contains more than certain percentage of crystalline silica? If yes, at what percentage of crystalline silica should a prohibition be set? Please support your response with reasons and evidence.

There is no known safe health level. The adoption of any threshold must be based on evidence, where easily adopted risk control measures will not produce exposures to any person reaching the 50% action level for the WES for RCS. This evidence must be independently gathered, analysed and reviewed.

[2] Carrieri et al 2020, IJERPH. 17(12):4489–4415. doi:10.3390/ijerph17124489

[3] Check with Dino

[4] Annals of Work Exposures and Health, 2022, Vol. 66, No. 2, 139–149

If such evidence were to be validated work would need to operate alongside a licencing regime for importers, suppliers & installers (PCBUs) and a mandatory high-risk licence for all workers who are engaged to work with engineered stone. Licences and other associated regulatory costs involved in this oversight and regulation must be met by those who profit of the product(s) PCBUs. Unlike with other industries, there should not be a transfer of costs off PCBUs onto workers with regards to the high-risk licence and prohibitions should be implemented so as to ensure that workers are not to be starved of employment, coerced, directed, force or allowed to bear costs for such high-risk licences.

4. How many businesses work with engineered stone only?

We were not able to identify any businesses which only deal with engineered stone when using the normal channels to find such businesses. The publicly available evidence suggests that installers are installing, if not all, most products for use as benchtops or other building fashion products.

Reports from within the industry has identified the only reason they still use it, is the fact that it is cheaper, if they shift to natural rocks in the absence of a ban on engineered stone, their competitors will gain an advantage.

~~For these businesses, please provide where possible:~~

~~a) the number of sole traders and small businesses (1-20 employees), medium businesses (21-200 employees), large businesses (>200 employees)~~
~~b) the number of workers in these businesses, by business size~~
~~c) the average annual revenue, by business size~~
~~d) the proportion of business activity with engineered stone containing 40% or more crystalline silica content, by business size~~
~~e) the proportion of business activity with engineered stone containing less than 40% crystalline silica content, by business size.~~

~~Please use the table below to enter this information.~~

~~Business type~~	~~Description~~	~~Sole traders and small business~~	~~Medium business~~	~~Large business~~
~~Business working with engineered stone only~~	~~Number of businesses~~			
	~~Number of people employed~~			
	~~total annual revenue (approximate, rounded to nearest $10,000)~~			
	~~Proportion of business activity involving ES with ≥ 40% silica~~			
	~~Proportion of business activity involving ES with <40% silica~~			

Click or tap to enter text.

5. How many businesses work with both engineered stone and non-engineered stone products?

See question 4

~~For these businesses, please provide where possible:~~

~~a) the number of sole traders and small businesses (1-20 employees), medium businesses (21-200 employees), large businesses (>200 employees)~~
~~b) the number of workers in these businesses, by business size~~
~~c) the average annual revenue, by business size~~
~~d) the proportion of their business activity with non-engineered stone products, by business size~~
~~e) the proportion of their business activity with engineered stone containing 40% or more crystalline silica content, by business size~~
~~f) the proportion of their business activity with engineered stone containing less than 40% crystalline silica content.~~

~~Please use the table below to enter this information.~~

~~Business type~~	~~Description~~	~~Sole traders and small business~~	~~Medium business~~	~~Large business~~
~~Business working with both engineered stone and non-engineered stone products~~	~~Number of businesses~~			
	~~Number of people employed~~			
	~~Average yearly revenue (approximate, rounded to nearest $1000)~~	-		
	~~Proportion of business activity involving ES with ≥ 40% silica~~	-	-	
	~~Proportion of business activity involving ES with <40% silica~~	-	-	
	~~Proportion of business activity involving non-engineered stone products~~	-	-	

Click or tap here to enter text.

6. Do you have any data or information on the risks to workers from the other non-crystalline silica elements of engineered stone? Are these risks increased in engineered stone of less than 40% crystalline silica content?

When fabricated, engineered stone products include volatile organic compounds and heavy metals – the biological response to these compounds has not been well characterised in this context. There is also uncertainty about other additives.

Anecdotal information indicates that those processing engineered stone also report skin irritation. [5]

The answer to the question will in part be subject to what the manufacturers replace the silica with in making the engineered stone with a lower silica content. Regardless of what it is being replace with, there are issues of concern which must be investigated related to the symbiotic affect on people from these products when they are made respirable.

~~7. In relation to Option 3, do you have:~~

~~a) any information on the additional benefits of a licensing scheme over the enhanced regulation agreed by WHS ministers (Option 5a) that would already apply to engineered stone products containing less than 40% crystalline silica content?~~

~~b) feedback on the implementation of concurrent licensing schemes for both prohibited engineered stone and non-prohibited engineered stone?~~

N/A

8. Are the assumptions and scenarios described for Option 6 in the Decision RIS accurate and appropriate? If not, why? Please provide additional information to support the impact analysis.

Analysis of the companies who trade and fit engineered stone benchtops suggest that none of them only deals in engineered stone but already are engaged in other forms of stone. The only businesses which are likely to be significantly impacted by a ban on engineered stone would be those who manufacture the products. It should be noted that engineered stone is not manufactured in Australia.

~~9. Are there any other options or issues you think should be considered for a prohibition on the use of engineered stone?~~

Click or tap here to enter text.

10. Should there be a transitional period for a prohibition on engineered stone? If so, should it apply to all options and how long should it be?

There should be no transitional period given the dangers of engineered stone and that there are plenty of substitutions for the product.

11. Do you have any evidence or data on the number of cases of the other silica-related diseases (such as lung cancer, chronic obstructive pulmonary disease, kidney disease, autoimmune disease) attributed to exposure to crystalline silica from engineered stone?

[5] For example – email from fabricator – "*… lot of resins and I don't think it will fix the problems that our industry is facing. we find the dust is toxic as when we get it on our skin regardless of wet dust or dry dust it feels like a mild sun burn something that no one is talking about and the smell of the dust is not the best either it smells like burnt plastic regardless of being cut wet"*

https://www.curtin.edu.au/about/wp-content/uploads/sites/5/2022/07/FEFreport_formatted.pdf

12. Do you have any additional evidence or information on the impacts of silicosis or silica-related diseases?

For example, the direct impacts on the affected worker from the disease, the impacts on the mental health of affected workers and their families, the healthcare costs to the affected worker, loss of income for affected workers and their families, the costs to the health, workers' compensation and social support systems.

https://www.workcover.wa.gov.au/wp-content/uploads/2021/09/Living-with-Silicosis-Fact-Sheet.pdf