

South Australia

# Work Health and Safety (Crystalline Silica Substances) Amendment Regulations 2024

under the *Work Health and Safety Act 2012*

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## Part 1—Preliminary

### 1—Short title

These regulations may be cited as the *Work Health and Safety (Crystalline Silica Substances) Amendment Regulations 2024*.

### 2—Commencement

These regulations come into operation on 1 September 2024.

## Part 2—Amendment of *Work Health and Safety Regulations 2012*

### 3—Amendment of regulation 5—Definitions

- (1) Regulation 5, definition of *controlled*—delete the definition and substitute:  
*controlled*, in relation to the processing of a CSS—see regulation 529B;
  - (2) Regulation 5—after the definition of *crane* insert:  
*crystalline silica*—see regulation 529A;
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*crystalline silica substance (CSS)*—see regulation 529A;

- (3) Regulation 5—after the definition of *heritage boiler* insert:

*high risk*, in relation to the processing of a CSS, means the processing of a CSS that is reasonably likely to result in a risk to the health of a person at the workplace;

- (4) Regulation 5, definition of *processing*—delete the definition and substitute:

*processing*, in relation to a CSS—see regulation 529A;

- (5) Regulation 5—after the definition of *signal word* insert:

*silica risk control plan* means, in relation to the processing of a CSS that is high risk, a silica risk control plan prepared under regulation 529CB;

#### 4—Substitution of heading to Chapter 8A

Heading to Chapter 8A—delete the heading and substitute:

### Chapter 8A—Crystalline silica

#### 5—Substitution of regulations 529A to 529C

Regulations 529A to 529C—delete the regulations and substitute:

#### 529A—Meaning of *processing* in relation to crystalline silica substances and related terms

- (1) In these regulations, *processing* in relation to a CSS means—
- the use of power tools or mechanical plant to carry out an activity involving the crushing, cutting, grinding, trimming, sanding, abrasive polishing or drilling of a CSS; or
  - the use of roadheaders to excavate material that is a CSS; or
  - the quarrying of a material that is a CSS; or
  - mechanical screening involving a material that is a CSS; or
  - tunnelling through a material that is a CSS; or
  - a process that exposes, or is reasonably likely to expose, a person to respirable crystalline silica during the manufacture or handling of a CSS.
- (2) In these regulations, *crystalline silica substance (CSS)* means material that contains at least 1% crystalline silica, determined as a weight/weight (w/w) concentration.

**Note—**

Engineered stone is a type of CSS.

- (3) In these regulations, *crystalline silica*—
- means crystalline polymorphs of silica; and
  - includes the following substances:
    - cristobalite;

- (ii) quartz;
  - (iii) tridymite;
  - (iv) tripoli.
- (4) In these regulations, ***engineered stone***—
- (a) means a CSS that—
    - (i) is an artificial product; and
    - (ii) is created by combining natural stone materials with other chemical constituents such as water, resins or pigments; and
    - (iii) becomes hardened; but
  - (b) does not include the following:
    - (i) concrete and cement products;
    - (ii) bricks, pavers and other similar blocks;
    - (iii) ceramic wall and floor tiles;
    - (iv) grout, mortar and render;
    - (v) plasterboard;
    - (vi) porcelain products;
    - (vii) sintered stone;
    - (viii) roof tiles.

**529B—When processing of CSS is *controlled***

- (1) In these regulations, the processing of a CSS is ***controlled*** if—
- (a) control measures to eliminate or minimise risks arising from the processing are implemented so far as is reasonably practicable; and
  - (b) at least 1 of the following measures are used during the processing:
    - (i) the isolation of a person from dust exposure;
    - (ii) a fully enclosed operator cabin fitted with a high efficiency air filtration system;
    - (iii) an effective wet dust suppression method;
    - (iv) an effective on-tool extraction system;
    - (v) an effective local exhaust ventilation system; and
  - (c) a person still at risk of being exposed to respirable crystalline silica after 1 or more of the measures in paragraph (b) are used—
    - (i) is provided with respiratory protective equipment; and

- (ii) wears the respiratory protective equipment while the work is carried out.

**Note—**

See also regulation 351.

- (2) Despite subregulation (1), if the measures in subregulation (1)(b) are not reasonably practicable, the processing of a CSS is controlled if a person who is at risk of being exposed to respirable crystalline silica during the processing—
  - (a) is provided with respiratory protective equipment; and
  - (b) wears the respiratory protective equipment while the work is carried out.
- (3) In this regulation—

***respiratory protective equipment*** means personal protective equipment that—

  - (a) is designed to prevent a person wearing the equipment from inhaling airborne contaminants; and
  - (b) complies with—
    - (i) AS/NZS 1716:2012 (*Respiratory protective devices*); and
    - (ii) AS/NZS 1715:2009 (*Selection, use and maintenance of respiratory protective equipment*).

**Note—**

Regulations 44, 45 and 46 apply to the provision and use of personal protective equipment, including the respiratory protective equipment provided under subregulation (1)(c) and (2).

**529C—Duty for processing of CSS to be controlled**

A person conducting a business or undertaking must not carry out, or direct or allow a worker to carry out, processing of a CSS unless the processing is controlled.

Maximum penalty:

- (a) In the case of an individual—\$8 400.
- (b) In the case of a body corporate—\$42 000.

**Note—**

Regulations 529D and 529F apply to the processing of engineered stone.

**529CA—Identifying processing of CSS that is high risk**

- (1) A person conducting a business or undertaking at a workplace must assess the processing of a CSS carried out by the business or undertaking at the workplace to determine if the processing is high risk.

Maximum penalty:

- (a) In the case of an individual—\$8 400.
  - (b) In the case of a body corporate—\$42 000.
- (2) In assessing whether the processing of a CSS is high risk, the person must have regard to the following:
- (a) the specific processing that will be undertaken;
  - (b) the form or forms of crystalline silica present in the CSS;
  - (c) the proportion of crystalline silica contained in the CSS, determined as a weight/weight (w/w) concentration;
  - (d) the hazards associated with the work, including the likely frequency and duration that a person will be exposed to respirable crystalline silica;
  - (e) whether the airborne concentration of respirable crystalline silica that is present at the workplace is reasonably likely to exceed half the workplace exposure standard;
  - (f) any relevant air and health monitoring results previously undertaken at the workplace;
  - (g) any previous incidents, illnesses or diseases associated with exposure to respirable crystalline silica at the workplace.
- (3) In assessing whether the processing of a CSS is high risk, the person must not—
- (a) rely on the control measures implemented under regulation 529B(1)(b); or
  - (b) have regard to the use of personal protective equipment and administrative controls used to control the risks associated with respirable crystalline silica.
- (4) The person must ensure that a risk assessment conducted under subregulation (1) is recorded in writing.
- Maximum penalty:
- (a) In the case of an individual—\$1 700.
  - (b) In the case of a body corporate—\$8 500.
- (5) If a person conducting a business or undertaking is unable to determine whether the processing of a CSS carried out at the workplace is high risk, the processing is taken to be high risk until the person determines that the processing is not high risk.

**529CB—Silica risk control plan required for processing of CSS that is high risk**

- (1) A person conducting a business or undertaking carrying out the processing of a CSS that is high risk must, before the processing commences, ensure that a silica risk control plan for the processing—
- (a) is prepared; or

- (b) has already been prepared by another person.

Maximum penalty:

- (a) In the case of an individual—\$8 400.
  - (b) In the case of a body corporate—\$42 000.
- (2) A silica risk control plan must—
- (a) identify all the processing of a CSS carried out at the workplace that is high risk; and
  - (b) include the risk assessment undertaken under regulation 529CA for all processing of a CSS that is high risk; and
  - (c) document what control measures will be used to control the risks associated with the processing that is high risk and how those measures will be implemented, monitored and reviewed; and
  - (d) be set out and expressed in a way that is readily accessible and understandable to persons who use it.
- (3) A silica risk control plan is not required to be prepared before the processing of a CSS that is high risk if—
- (a) the processing that is high risk is also high risk construction work; and
  - (b) a safe work method statement is prepared, or has already been prepared by another person, before the processing commences; and
  - (c) the safe work method statement satisfies the requirements in subregulation (2).

### **529CC—Compliance with silica risk control plan**

- (1) A person conducting a business or undertaking carrying out the processing of a CSS that is high risk must put in place arrangements for ensuring that the processing is carried out in accordance with the silica risk control plan, including by ensuring that the silica risk control plan is—
- (a) available to all workers; and
  - (b) provided to all workers before they commence the processing.

Maximum penalty:

- (a) In the case of an individual—\$8 400.
  - (b) In the case of a body corporate—\$42 000.
- (2) If the processing of a CSS that is high risk is not carried out in accordance with the silica risk control plan that applies to the processing, the person must ensure that the processing—
- (a) is stopped immediately or as soon as it is safe to do so; and

(b) resumed only in accordance with the silica risk control plan.

Maximum penalty:

(a) In the case of an individual—\$8 400.

(b) In the case of a body corporate—\$42 000.

(3) A person conducting a business or undertaking must ensure that a silica risk control plan is reviewed and as necessary revised if relevant control measures are revised under regulation 38.

Maximum penalty:

(a) In the case of an individual—\$5 000.

(b) In the case of a body corporate—\$25 000.

### **529CD—Duty to train workers about risks of crystalline silica**

(1) A person conducting a business or undertaking must ensure that a worker receives crystalline silica training if the person reasonably believes that the worker may be—

(a) involved in the processing of a CSS that is high risk; or

(b) be at risk of exposure to respirable crystalline silica because of the processing of a CSS that is high risk.

Maximum penalty:

(a) In the case of an individual—\$8 400.

(b) In the case of a body corporate—\$42 000.

(2) The person must ensure that a record is kept of the training undertaken by the worker—

(a) while the worker is carrying out the processing of a CSS that is high risk; and

(b) for 5 years after the day the worker ceases working for the person.

Maximum penalty:

(a) In the case of an individual—\$1 700.

(b) In the case of a body corporate—\$8 500.

(3) The person must keep the record available for inspection under the Act.

Maximum penalty:

(a) In the case of an individual—\$1 700.

(b) In the case of a body corporate—\$8 500.

(4) In this regulation—

*crystalline silica training* means training that is accredited, or training approved by the regulator, in relation to the following:

(a) the health risks associated with exposure to respirable crystalline silica;

- (b) the need for, and proper use of, any risk control measures required by the Regulations.

**Note—**

Division 1 of Chapter 3 Part 2 also applies to a person conducting a business or undertaking involving the processing of a CSS.

**529CE—Monitoring in relation to processing of CSS that is high risk**

A person conducting a business or undertaking that is carrying out, or directing or allowing a worker to carry out, the processing of a CSS that is high risk, must—

- (a) undertake air monitoring for respirable crystalline silica in accordance with regulation 50; and
- (b) provide air monitoring results to the regulator, in a form approved by the regulator, if the airborne concentration of respirable crystalline silica has exceeded the workplace exposure standard as soon as reasonably practicable and no more than 14 days from the date that the air monitoring result was reported to the person conducting a business or undertaking; and
- (c) provide health monitoring for all workers carrying out the processing of a CSS that is high risk in accordance with Division 6 of Chapter 7 Part 1 of the Regulations.

Maximum penalty:

- (a) In the case of an individual—\$8 400.
- (b) In the case of a body corporate—\$42 000.

**6—Repeal of Chapter 8A Parts 4 and 5**

Chapter 8A Parts 4 and 5—delete the Parts

**Editorial note—**

As required by section 10AA(2) of the *Legislative Instruments Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

**Made by the Governor**

with the advice and consent of the Executive Council  
on 27 June 2024

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