

CALIFORNIA INDUSTRIAL HYGIENE COUNCIL

*Advancing public policy to improve the health and safety
of workers and the community.*

June 20, 2024

Via email: oshsb@dir.ca.gov

Occupational Safety & Health Standards Board
2520 Venture Oaks Way, Suite 350
Sacramento, CA 95833

Subject: Comments on Proposed Permanent Changes to Respirable Crystalline Silica
(RCS) Regulations (8 CCR 5204)

Dear Chair Alioto, Members and Staff:

The California Industrial Hygiene Council (CIHC) appreciates the opportunity to comment on the proposed permanent changes to 8 CCR 5204.

CIHC represents occupational and environmental health professionals in California to advance public policy for the improvement of the health and safety of workers and the community.

Exposure to respirable crystalline silica has centuries old, well-documented potential adverse health effects, in particular various types of silicosis. Control of exposure is critical! CIHC understands that the proposed permanent changes are intended to ensure that employers with fabrication operations using artificial stone are implementing protective measures to control the impact on workers. The goal with these requirements needs to assure addressing effective exposure controls that can be consistently and correctly implemented.

CIHC is concerned that even with the permanent changes and these additional requirements for fabrication activities with artificial stone, there is not going to be sufficient impact to lessen the clearly serious exposures to workers in this industry without enhanced enforcement and extensive outreach for training and education of both employers and workers. CIHC would gladly step up to assist with outreach for employer and worker education and training if such opportunities are available.

CIHC has the following specific comments on proposed requirements:

Definitions – 5204(b)(8) High exposure trigger task (HETT) – CIHC submitted this comment during the ETS process, and we still have the same question. What is the basis for these percentages? The use of 0.1% by weight crystalline silica for artificial stone and 10% by weight crystalline silica for natural stone in this definition of HETT effectively captures almost all operations where materials with crystalline silica content are being manipulated. Is this really the intent of these changes – to capture almost all fabrication (manipulation) operations with virtually all source materials that have a crystalline silica content?

It is well-documented that the crystalline silica content of artificial stone is typically much higher than natural stone and other source materials; typically, on the order of 90%.

CIHC recommends that the definition be changed to address only a definition of artificial stone with a percentage that is more realistic of typical artificial stone source material crystalline silica content. 8 CCR 5204 would still apply to all other manufacturing/fabrication operations in which RCS exposure is a potential hazard as it does currently.

CIHC further recommends a requirement be added to have a small sample (bulk sample) of source materials analyzed to determine if the percentage of crystalline silica content falls within the application of the HETTs or the more general application of 8 CCR 5204. This is a straightforward and relatively inexpensive analysis that is readily available. This information would go along way to helping employers understand their obligation to comply with 8 CCR 5204 whether due to fabrication involving artificial stone, natural stone, or other source materials.

Definitions – 5204(b)(11) Qualified person – CIHC appreciates that a definition of qualified person has been added to this regulation. However, why muddy the water with yet another attempt to ensure the quality, interpretation, and application of exposure assessment data? In this regard, we have two comments.

1. CIHC recommends that the proposed definition of “qualified person” be deleted, and instead use the same language as in 5155(e)(3) with the addition of “for example, a Certified Industrial Hygienist (CIH) as codified in California's Business and Professions (B&P) Code Sections 20700-20705”. The benchmark for competence in industrial hygiene is this certification by the Board for Global EHS Credentialing (formerly the American Board of Industrial Hygiene).
The proposed changes to 8 CCR 5204 include a new definition of “specialist” in (b)(14), which provides a very specific definition: “Specialist means an American Board-Certified Specialist in Pulmonary Disease or an American Board-Certified Specialist in Occupational Medicine”. Why can't the “qualified person” definition provide analogous specificity?
2. If the Board does not concur with CIHC's recommendation on how to define “qualified person,” then we recommend using the language from 8 CCR 5155(e)(3) as the definition for assuring exposure assessment quality. The requirement in 5155(e)(3) states: “For the adequate protection of employees, the person supervising, directing or evaluating the monitoring and control methods shall be versed in this standard and shall be competent in industrial hygiene practice.”
If not defined by using the same verbiage as 8 CCR 5155(e)(3), then perhaps simply a reference to 5155(e)(3) could be adequate.

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For background, we refer your attention to a response to comments in the Lead Final Statement of Reasons document (specifically, Response to Comment 4.1 in that document) which reads:

“The Board notes that the language in subsection 5155(e)(3) covers all exposure assessments conducted in accordance with sections 1532.1 and 5198. The language of that section specifies, “... for the adequate protection of employees, the person supervising, directing or evaluating the monitoring and control methods shall be versed in this standard and shall be competent in industrial hygiene practice.” (Title 8 California Code of Regulations (CCR) section 5155(e)(3)). **The Board believes that this current language is adequate for the purpose of ensuring the quality of exposure monitoring.**” (emphasis added)

Note that this response to comment was made due to the same concerns that were raised about data quality for exposure assessments required by the lead regulations.

Thank you for your time and consideration. If needed, please contact me on behalf of the CIHC at (916) 712-4547 or kwa-sacramento@att.net.

Very truly yours,
California Industrial Hygiene Council



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