



Work Health and Safety Amendment (Penalties and Engineered Stone and Crystalline Silica Substances) Regulations 2024

I, General the Honourable David Hurley AC DSC (Retd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 20 June 2024

David Hurley
Governor-General

By His Excellency's Command

Tony Burke
Minister for Employment and Workplace Relations

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1 Name

This instrument is the *Work Health and Safety Amendment (Penalties and Engineered Stone and Crystalline Silica Substances) Regulations 2024*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 to 4 and anything in this instrument not elsewhere covered by this table	The day after this instrument is registered.	
2. Schedule 1	The day after this instrument is registered.	
3. Schedule 2	1 July 2024.	1 July 2024
4. Schedule 3	1 September 2024.	1 September 2024

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the *Work Health and Safety Act 2011*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Penalties

Part 1—Tier G monetary penalty offences

Division 1—Amendments of listed provisions

Work Health and Safety Regulations 2011

1 Amendments of listed provisions—tier G penalties

In the provisions listed in the following table, repeal the penalty and note and substitute:

Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier G monetary penalty.

Item	Provision
1	Regulation 19
2	Subregulation 22(3)
3	Subregulations 46(2) to (4)
4	Regulation 47
5	Subregulation 50(3)
6	Subregulations 66(2) and (5)
7	Subregulation 68(1)
8	Subregulations 70(1) and (2)
9	Subregulation 77(5)
10	Subregulations 85(1) to (3)
11	Subregulation 149(1)
12	Subregulation 150(1)
13	Regulation 151
14	Subregulation 162(4)
15	Subregulation 165(1)
16	Subregulation 176(2)
17	Subregulation 182(4)
18	Regulation 195
19	Regulation 196
20	Regulation 198
21	Regulation 200
22	Subregulation 213(1)
23	Subregulations 224(1) and (2)
24	Subregulation 235(2)
25	Subregulations 236(1) to (3)
26	Subregulations 239(1) and (2)
27	Regulation 253

Item	Provision
28	Regulation 254
29	Subregulation 294(1)
30	Subregulations 295(1) and (2)
31	Regulation 296
32	Subregulation 298(1)
33	Regulation 301
34	Regulation 302
35	Subregulation 303(3)
36	Subregulations 304(2) and (3)
37	Regulation 308
38	Regulation 310
39	Subregulations 311(1) and (2)
40	Subregulation 313(3)
41	Regulation 316
42	Subregulation 317(1)
43	Regulation 327
44	Subregulations 337(1) and (2)
45	Subregulation 338(1)
46	Subregulations 344(3), (5) and (6)
47	Subregulation 346(3)
48	Subregulation 347(3)
49	Regulation 369
50	Subregulation 371(2)
51	Subregulation 372(1)
52	Regulation 373
53	Regulation 385
54	Subregulation 387(3)
55	Subregulations 388(2) and (3)
56	Subregulation 398(2)
57	Subregulation 401(1)
58	Subregulations 403(1) and (3)
59	Subregulation 409(1)
60	Regulation 410
61	Subregulation 415(2)
62	Subregulations 425(1) and (2)
63	Regulation 426
64	Subregulations 427(1) and (2)
65	Regulation 428
66	Subregulation 429(5)
67	Subregulation 430(1)
68	Subregulation 432(5)
69	Subregulations 438(1) and (2)

Schedule 1 Penalties

Part 1 Tier G monetary penalty offences

Item	Provision
70	Regulation 439
71	Subregulations 446(1) and (3)
72	Subregulation 451(5)
73	Subregulations 454(2) and (3)
74	Subregulations 455(2) and (3)
75	Subregulation 464(3)
76	Subregulations 465(1) to (3)
77	Subregulations 466(1) and (3)
78	Subregulation 482(3)
79	Regulation 529
80	Subregulation 547(2)
81	Subregulation 548(2)
82	Regulation 551
83	Subregulations 553(4) and (5)
84	Subregulation 555(5)
85	Regulation 560
86	Subregulation 562(2)
87	Subregulation 567(4)
88	Subregulation 576(1)

Division 2—Other amendments

Work Health and Safety Regulations 2011

2 Subregulation 150(2) (penalty and notes)

Repeal the penalty and notes, substitute:

Note 1: However, electrical equipment that is unsafe must not be used (see regulation 149).

Note 2: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier G monetary penalty.

3 Regulations 187 and 188 (penalty and notes)

Repeal the penalty and notes, substitute:

Note 1: A designer also has duties under section 22 of the Act.

Note 2: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier G monetary penalty.

4 Subregulation 304(4) (penalty and notes)

Repeal the penalty and notes, substitute:

Note 1: Legislation relating to the essential services may also impose duties on the person conducting the business or undertaking and the persons carrying out the work.

Note 2: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier G monetary penalty.

5 Regulation 312 (penalty and notes)

Repeal the penalty and notes, substitute:

Note 1: The WHS management plan contains arrangements for co-operation between persons conducting a business or undertaking at the construction project workplace, including in relation to the preparation of safe work method statements (see paragraphs 309(2)(b) and (e)).

Note 2: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations

Penalty: The tier G monetary penalty.

6 Regulation 336 (penalty, examples and note)

Repeal the penalty, examples and note, substitute:

Example 1: Decanting fuel into a fuel container.

Example 2: Refuelling a car.

Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier G monetary penalty.

7 Regulation 433 (penalty, example and note)

Repeal the penalty, example and note, substitute:

Example: A control measure is revised under regulation 38.

Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier G monetary penalty.

8 Regulation 448 (penalty, example and note)

Repeal the penalty, example and note, substitute:

Example: The register identifies an inaccessible area that is likely to contain asbestos and the area is likely to be accessible because of demolition.

Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier G monetary penalty.

9 Subregulation 557(8) (penalty and notes)

Repeal the penalty and notes, substitute:

Note 1: This regulation applies in addition to regulation 43.

Schedule 1 Penalties

Part 1 Tier G monetary penalty offences

Note 2: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier G monetary penalty.

10 Regulation 563 (penalty and notes)

Repeal the penalty and notes, substitute:

Note 1: The operator of a licensed major hazard facility is required to tell the regulator about any change in relation to certain information about the licence (see regulation 588).

Note 2: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier G monetary penalty.

11 Regulation 570 (penalty and notes)

Repeal the penalty and notes, substitute:

Note 1: The operator of a licensed major hazard facility is required to tell the regulator about any change in relation to certain information about the licence (see regulation 588).

Note 2: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier G monetary penalty.

Part 2—Tier E monetary penalty offences

Division 1—Amendments of listed provisions

Work Health and Safety Regulations 2011

12 Amendments of listed provisions—tier E penalties

In the provisions listed in the following table, repeal the penalty and note and substitute:

Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier E monetary penalty.

Item	Provision
1	Subregulations 39(2) and (3)
2	Regulation 40
3	Subregulations 41(1) and (2)
4	Subregulations 42(1) and (2)
5	Subregulations 43(1), (2) and (4)
6	Regulation 45
7	Subregulation 48(2)
8	Regulation 49
9	Subregulation 50(1)
10	Subregulation 53(1)
11	Subregulation 55(2)
12	Subregulation 57(2)
13	Subregulation 58(2)
14	Subregulations 59(1) to (6)
15	Subregulations 61(1) to (8)
16	Subregulation 64(2)
17	Regulation 65
18	Subregulations 67(1) and (4)
19	Regulation 69
20	Subregulations 71(1) and (2)
21	Subregulations 72(1) and (2)
22	Regulation 73
23	Subregulation 74(1)
24	Subregulation 75(2)
25	Subregulation 76(1)
26	Subregulations 78(3) and (4)
27	Subregulation 79(2)
28	Subregulations 80(2) to (4)

Schedule 1 Penalties**Part 2 Tier E monetary penalty offences**

Item	Provision
29	Subregulation 84(1)
30	Regulation 154
31	Subregulation 155(2)
32	Regulation 156
33	Subregulation 157(1)
34	Subregulation 158(1)
35	Regulation 159
36	Regulation 160
37	Subregulations 161(1) and (2)
38	Subregulation 163(1)
39	Subregulation 164(2)
40	Subregulation 166(1)
41	Subregulations 168(1) and (2)
42	Subregulation 178(1)
43	Subregulations 179(1) and (2)
44	Subregulations 183(1) and (3)
45	Subregulation 184A(1)
46	Subregulations 189(2) to (6)
47	Subregulations 190(1) and (2)
48	Subregulations 191(1) and (2)
49	Subregulation 192(2)
50	Subregulation 193(1)
51	Subregulations 194(1) and (2)
52	Regulation 197
53	Subregulations 199(1) and (2)
54	Subregulation 201(2)
55	Subregulation 202(2)
56	Subregulations 204(1) to (5)
57	Regulation 205
58	Subregulations 206(1) to (3)
59	Regulation 207
60	Subregulations 208(2) to (5)
61	Regulation 209
62	Subregulations 210(1) and (2)
63	Subregulations 211(1) and (2)
64	Subregulation 212(2)
65	Subregulations 215(2) to (5)
66	Subregulation 216(1)
67	Subregulations 218(1) and (2)
68	Subregulations 219(2) to (7)
69	Subregulations 222(2) and (3)
70	Subregulations 223(2) to (6)

Item	Provision
71	Subregulations 225(2) to (4)
72	Regulation 231
73	Regulation 232
74	Regulation 233
75	Subregulation 234(2)
76	Subregulations 238(1) and (2)
77	Subregulation 240(1)
78	Subregulation 241(1)
79	Subregulation 299(1)
80	Subregulations 300(1) and (2)
81	Subregulations 306(1) and (3)
82	Subregulation 309(1)
83	Regulation 329
84	Subregulations 330(1), (3) and (4)
85	Subregulation 331(2)
86	Subregulation 332(2)
87	Regulation 333
88	Regulation 334
89	Subregulation 335(1)
90	Subregulations 339(1) and (3)
91	Subregulations 340(1) and (2)
92	Subregulation 341(1)
93	Subregulations 342(1), (2) and (3)
94	Regulation 343
95	Subregulation 344(1)
96	Subregulation 347(1)
97	Subregulations 348(1), (4) and (6)
98	Subregulation 349(1)
99	Subregulation 350(1)
100	Regulation 352
101	Subregulation 353(2)
102	Subregulation 354(1)
103	Regulation 355
104	Subregulations 356(1) and (2)
105	Subregulations 357(1) to (3)
106	Regulation 358
107	Subregulations 359(1) to (3)
108	Subregulations 361(2) and (3)
109	Subregulation 362(2)
110	Subregulation 363(1)
111	Subregulation 365(2)
112	Subregulations 366(2) and (3)

Schedule 1 Penalties

Part 2 Tier E monetary penalty offences

Item	Provision
113	Subregulation 367(3)
114	Regulation 370
115	Subregulation 371(1)
116	Subregulation 374(1)
117	Regulation 375
118	Regulation 376
119	Regulation 377
120	Subregulation 379(1)
121	Subregulation 389(2)
122	Subregulation 391(2)
123	Subregulations 395(1) and (2)
124	Regulation 396
125	Subregulations 397(1) and (2)
126	Subregulation 398(1)
127	Subregulations 399(1) and (2)
128	Subregulation 400(3)
129	Subregulation 402(1)
130	Subregulations 405(1) and (2)
131	Regulation 406
132	Subregulations 407(1) and (2)
133	Subregulations 408(1) and (2)
134	Subregulation 411(1)
135	Regulation 412
136	Regulation 413
137	Regulation 414
138	Subregulation 415(1)
139	Subregulations 416(2) and (3)
140	Subregulations 417(2) and (3)
141	Subregulation 419(1)
142	Subregulation 420(2)
143	Subregulation 422(1)
144	Regulation 424
145	Subregulations 429(2) and (3)
146	Subregulations 432(2) and (3)
147	Regulation 434
148	Subregulations 435(1) and (3)
149	Regulation 436
150	Subregulations 437(1) and (2)
151	Subregulation 440(1)
152	Regulation 441
153	Regulation 442
154	Regulation 443

Item	Provision
155	Subregulation 445(1)
156	Regulation 449
157	Regulation 450
158	Subregulations 451(2) and (3)
159	Subregulation 452(3)
160	Subregulation 453(1)
161	Subregulation 456(3)
162	Regulation 457
163	Subregulations 458(1) and (3)
164	Regulation 459
165	Subregulations 460(1) and (2)
166	Regulation 462
167	Subregulation 463(1)
168	Subregulation 464(1)
169	Subregulations 467(2) and (3)
170	Subregulations 468(2) and (3)
171	Regulation 469
172	Subregulations 470(2) and (5)
173	Subregulations 471(1) and (2)
174	Subregulation 472(1)
175	Subregulation 473(2)
176	Subregulations 474(2) to (4)
177	Subregulations 475(1) and (2) and (4) to (6)
178	Subregulations 476(1) and (2)
179	Subregulations 477(1) and (2) and (4) to (6)
180	Subregulation 479(1)
181	Regulation 480
182	Regulation 481
183	Subregulations 482(1) and (2)
184	Subregulations 483(1) and (2)
185	Subregulation 484(1)
186	Subregulation 536(1)
187	Subregulations 554(1) and (3)
188	Subregulations 555(1) and (4)
189	Subregulation 556(2)
190	Subregulations 557(1) and (5) to (7)
191	Subregulations 558(1) and (2)
192	Subregulations 564(1) and (3)
193	Regulation 565
194	Subregulation 566(2)
195	Subregulations 567(1) to (3)
196	Subregulation 568(1)

Item	Provision
197	Subregulation 569(1)
198	Regulation 571
199	Subregulation 572(1)
200	Subregulation 573(1)
201	Subregulations 574(1) and (2)
202	Subregulation 575(1)

Division 2—Other amendments

Work Health and Safety Regulations 2011

13 Subregulation 44(2) (penalty, example and note)

Repeal the penalty, example and note, substitute:

Example: Equipment that has been provided by a labour hire company.

Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier E monetary penalty.

14 Subregulation 44(4) (penalty and notes)

Repeal the penalty and notes, substitute:

Note 1: A person conducting a business or undertaking must not charge or impose a levy on a worker for the provision of personal protective equipment (see section 273 of the Act).

Note 2: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier E monetary penalty.

15 Subregulation 74(2) (penalty)

Repeal the penalty, substitute:

Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier E monetary penalty.

16 Subregulation 74(3) (penalty and notes)

Repeal the penalty and notes, substitute:

Note 1: See Part 3.2 for general provisions relating to first aid, personal protective equipment and emergency plans.

Note 2: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier E monetary penalty.

17 Subregulation 75(3) (penalty and notes)

Repeal the penalty and notes, substitute:

- Note 1: Regulation 44 applies to the use of personal protective equipment, including the equipment provided under this regulation.
- Note 2: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier E monetary penalty.

18 Subregulation 155(1) (penalty and notes)

Repeal the penalty and notes, substitute:

- Note 1: Regulation 157 allows electrical testing to be carried out on electrical equipment for the purposes of this regulation. Regulation 161 sets out how the testing is to be carried out.
- Note 2: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier E monetary penalty.

19 Subregulation 166(2) (penalty and notes)

Repeal the penalty and notes, substitute:

- Note 1: Relevant electricity safety legislation will also apply to the person conducting the business or undertaking.
- Note 2: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier E monetary penalty.

20 Regulation 177 (penalty and notes)

Repeal the penalty and notes, substitute:

- Note 1: See regulation 174 for the qualifications of the competent person.
- Note 2: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier E monetary penalty.

21 Subregulation 218(3) (penalty and notes)

Repeal the penalty and notes, substitute:

- Note 1: Regulations 214 and 215 also apply to an industrial lift truck.
- Note 2: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier E monetary penalty.

22 Subregulation 225(5) (penalty, example and note)

Repeal the penalty, example and note, substitute:

Example: Danger tags and other warning signs.

Schedule 1 Penalties

Part 2 Tier E monetary penalty offences

Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier E monetary penalty.

23 Regulation 314 (penalty and notes)

Repeal the penalty and notes, substitute:

Note 1: All persons conducting a business or undertaking at the construction project workplace have these same duties (see Part 3.2 of these Regulations and section 19 of the Act). Section 16 of the Act provides for situations in which more than one person has the same duty.

Note 2: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier E monetary penalty.

24 Regulation 345 (penalty and notes)

Repeal the penalty and notes, substitute:

Note 1: The manufacturer or importer of a hazardous chemical must amend a safety data sheet as necessary to ensure the information is correct and current (see paragraph 330(3)(b)).

Note 2: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier E monetary penalty.

25 At the end of subregulation 346(1)

Add:

Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier E monetary penalty.

26 Subregulation 354(3) (penalty, examples and note)

Repeal the penalty, examples and note, substitute:

Example: Personal use products, including the following:

- (a) cosmetics;
- (b) face washer.

Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier E monetary penalty.

27 Regulation 360 (penalty and notes)

Repeal the penalty and notes, substitute:

Note 1: A person conducting a business or undertaking must comply with Division 4 of Part 3.2.

Note 2: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier E monetary penalty.

28 Subregulation 363(2) (penalty, example and note)

Repeal the penalty, example and note, substitute:

Example: Information provided at a training course.

Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier E monetary penalty.

29 Subregulation 365(3) (penalty and notes)

Repeal the penalty and notes, substitute:

Note 1: For correctly labelling hazardous chemicals, see Subdivision 3 of Division 2.

Note 2: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier E monetary penalty.

30 Regulation 368 (penalty and notes)

Repeal the penalty and notes, substitute:

Note 1: The biological exposure standard is published by Safe Work Australia.

Note 2: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier E monetary penalty.

31 Subregulation 389(1) (penalty, example and note)

Repeal the penalty, example and note, substitute:

Example: Risks associated with the testing, installation, commissioning, operation, maintenance and decommissioning of the pipeline.

Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier E monetary penalty.

32 Subregulation 400(1) (penalty, example and note)

Repeal the penalty, example and note, substitute:

Example: Work boots.

Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier E monetary penalty.

33 Subregulation 400(2) (penalty and notes)

Repeal the penalty and notes, substitute:

- Note 1: Regulation 335 also requires the container to be labelled to indicate the presence of lead.
- Note 2: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier E monetary penalty.

34 Subregulation 407(5) (penalty and notes)

Repeal the penalty and notes, substitute:

- Note 1: A determination of a different frequency for biological monitoring is a reviewable decision (see regulation 676).
- Note 2: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier E monetary penalty.

35 Subregulation 472(2) (penalty, example and note)

Repeal the penalty, example and note, substitute:

- Example: Work boots.
- Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier E monetary penalty.

36 Subregulation 472(3) (penalty and notes)

Repeal the penalty and notes, substitute:

- Note 1: Relevant electricity safety legislation will also apply to the person conducting the business or undertaking.
- Note 2: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier E monetary penalty.

37 Subregulation 484(2) (penalty, example and note)

Repeal the penalty, example and note, substitute:

- Example: Work boots.
- Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier E monetary penalty.

38 Subregulation 484(3) (penalty and notes)

Repeal the penalty and notes, substitute:

- Note 1: State legislation relating to laundries handling asbestos-contaminated clothing will also apply to the person conducting the business or undertaking.

Note 2: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier E monetary penalty.

39 Subregulation 559(1) (penalty)

Repeal the penalty, substitute:

Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier E monetary penalty.

40 Subregulation 575(2) (penalty and notes)

Repeal the penalty and notes, substitute:

Note 1: See section 49 of the Act for other consultation duties of a person conducting a business or undertaking.

Note 2: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier E monetary penalty.

Part 3—Tier I monetary penalty offences

Division 1—Amendments of listed provisions

Work Health and Safety Regulations 2011

41 Amendments of listed provisions—tier I penalties

In the provisions listed in the following table, repeal the penalty and note and substitute:

Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier I monetary penalty.

Item	Provision
1	Subregulation 50(2)
2	Subregulation 66(3)
3	Subregulation 76(2)
4	Subregulations 77(2) to (4)
5	Subregulation 85(4)
6	Subregulation 94(1)
7	Regulation 96
8	Regulation 97
9	Subregulation 98(1)
10	Regulation 111
11	Subregulation 150(3)
12	Subregulations 162(2), (3) and (5)
13	Subregulation 165(2)
14	Regulation 170
15	Subregulations 175(1) to (3)
16	Subregulation 176(3)
17	Regulation 180
18	Subregulations 181(2) to (4)
19	Subregulations 182(2), (3) and (5)
20	Subregulations 226(1), (3) and (4)
21	Regulation 228
22	Subregulations 229(1) and (2)
23	Subregulations 230(1) to (3)
24	Subregulations 237(2), (4) and (5)
25	Subregulations 242(1) and (3)
26	Subregulations 260(3) to (5)
27	Subregulation 262(1)
28	Subregulations 273(3) and (4)

Item	Provision
29	Subregulation 275(1)
30	Subregulation 282(1)
31	Regulation 287
32	Subregulation 288(1)
33	Regulation 288D
34	Subregulations 303(1), (2) and (4)
35	Subregulation 304(5)
36	Subregulations 313(1), (2) and (4)
37	Subregulations 326(1) and (2)
38	Subregulations 340(3) and (4)
39	Regulation 364
40	Subregulations 378(1) and (2)
41	Subregulations 390(2) and (3)
42	Subregulation 391(3)
43	Subregulations 404(1) and (2)
44	Subregulations 418(1) and (2)
45	Subregulation 423(2)
46	Subregulation 444(2)
47	Subregulations 445(3) and (4)
48	Subregulations 461(1) and (2)
49	Subregulation 572(4)
50	Subregulation 587(1)
51	Regulation 593
52	Subregulation 594(1)
53	Regulation 607

Division 2—Other amendments

Work Health and Safety Regulations 2011

42 Subregulation 142(1) (penalty and notes)

Repeal the penalty and notes, substitute:

- Note 1: See section 268 of the Act for offences relating to the giving of false or misleading information under the Act or these Regulations.
- Note 2: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier I monetary penalty.

43 Subregulation 242(2) (penalty and notes)

Repeal the penalty and notes, substitute:

Schedule 1 Penalties

Part 3 Tier I monetary penalty offences

Note 1: Subregulation 237(5) requires the person with management or control of the amusement device to give the log book and maintenance records to the person being supplied with the plant.

Note 2: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier I monetary penalty.

44 Subregulation 444(1) (penalty)

Repeal the penalty, substitute:

Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier I monetary penalty.

45 Subregulation 505(1) (penalty)

Repeal the penalty, substitute:

Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier I monetary penalty.

46 Subregulation 506(1) (penalty)

Repeal the penalty, substitute:

Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier I monetary penalty.

47 Subregulation 507(1) (penalty)

Repeal the penalty, substitute:

Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier I monetary penalty.

48 Regulation 512 (penalty)

Repeal the penalty, substitute:

Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier I monetary penalty.

49 Subregulation 513(1) (penalty)

Repeal the penalty, substitute:

Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier I monetary penalty.

50 Regulation 525 (penalty)

Repeal the penalty, substitute:

Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier I monetary penalty.

51 Subregulation 588(1) (penalty, example and note)

Repeal the penalty, example and note, substitute:

Example: A change to the quantity of the hazardous chemicals present or likely to be present at the facility.

Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier I monetary penalty.

Part 4—Miscellaneous amendments

Work Health and Safety Regulations 2011

52 Regulation 55C

Repeal the regulation, substitute:

55C Managing psychosocial risks

A person conducting a business or undertaking must:

- (a) manage psychosocial risks in accordance with Part 3.1; and
- (b) implement the control measures required by regulation 55D.

Note: WHS Act—section 19 (see regulation 9).

Schedule 2—Engineered stone

Work Health and Safety Regulations 2011

1 Subregulation 5(1)

Insert:

controlled, in relation to work involving processing engineered stone, porcelain products or sintered stone—see subregulation 529B(1).

engineered stone—see subregulation 529A(1).

porcelain product does not include a product that contains resin.

processing, in relation to work involving processing engineered stone, porcelain products or sintered stone—see regulation 529C.

sintered stone does not include a product that contains resin.

2 Part 4.9

Repeal the Part.

3 After Chapter 8

Insert:

Chapter 8A—Engineered stone, porcelain products and sintered stone

Part 8A.1—Preliminary

529A Meaning of *engineered stone*

- (1) In these Regulations, *engineered stone*:
 - (a) is an artificial product that:
 - (i) contains 1% or more crystalline silica, determined as a weight/weight (w/w) concentration; 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.

- (2) In this regulation, *crystalline silica*:
- (a) means crystalline polymorphs of silica; and
 - (b) includes the following substances:
 - (i) cristobalite;
 - (ii) quartz;
 - (iii) tridymite;
 - (iv) tripoli.

529B When work involving processing engineered stone, porcelain products or sintered stone is *controlled*

- (1) In these Regulations, work involving processing engineered stone, porcelain products or sintered stone is *controlled* if:
- (a) control measures to eliminate or minimise risks arising from the processing of the stone or product are implemented so far as is reasonably practicable; and
 - (b) at least 1 of the following systems is used while the stone or product is processed:
 - (i) an effective water delivery system that supplies a continuous feed of water over the stone or product to suppress the generation of dust;
 - (ii) an effective on-tool extraction system;
 - (iii) an effective local exhaust ventilation system; and
 - (c) each person who is at risk from the processing of the stone or product:
 - (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) 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 to 46 apply to the provision and use of personal protective equipment, including the respiratory protective equipment provided under paragraph (1)(c).

529C Meaning of *processing* in relation to engineered stone, porcelain products or sintered stone

In these Regulations, *processing*, in relation to engineered stone, porcelain products or sintered stone, means using a power tool or other mechanical plant to crush, cut, grind, trim, sand, abrasive polish or drill the stone or product.

Part 8A.2—Work involving engineered stone benchtops, panels or slabs

529D Work involving engineered stone benchtops, panels or slabs—prohibition

A person conducting a business or undertaking must not carry out, or direct or allow a worker to carry out, work that involves manufacturing, supplying, processing or installing engineered stone benchtops, panels or slabs.

Note 1: Under Division 3A of Part 11.2, work involving a type of engineered stone may be the subject of an exemption from this regulation.

Note 2: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier E monetary penalty.

529E Work involving engineered stone benchtops, panels or slabs—exception for particular supply and installation

Regulation 529D does not apply to work that involves supplying or installing engineered stone benchtops, panels or slabs if the work is:

- (a) for genuine research and analysis; or
- (b) to sample and identify engineered stone.

529F Work involving engineered stone benchtops, panels or slabs—exception for particular processing

Regulation 529D does not apply to work that involves processing engineered stone benchtops, panels or slabs if the work:

- (a) is carried out:
 - (i) for genuine research and analysis; or
 - (ii) to sample and identify engineered stone; or
 - (iii) to remove, repair or make minor modifications to installed engineered stone; or
 - (iv) to dispose of the engineered stone, whether it is installed or not; and
- (b) is controlled.

Part 8A.3—Regulator to be notified of particular processing of engineered stone

529G Notification of particular processing of engineered stone

- (1) This regulation applies if work that involves processing engineered stone benchtops, panels or slabs is carried out:
 - (a) to remove, repair or make minor modifications to installed engineered stone; or
 - (b) to dispose of the engineered stone, whether it is installed or not.

- (2) Before the work is carried out, a person conducting a business or undertaking carrying out, or directing or allowing a worker to carry out, the work must give the regulator a written notice in the form approved by the regulator:
- (a) stating the work being carried out; and
 - (b) describing the type of work being carried out; and
 - (c) stating the frequency and duration of the work; and
 - (d) stating the other information in relation to the work required by the approved form, if any.

Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier G monetary penalty.

- (3) Subregulation (2) does not apply to a person conducting a business or undertaking if:
- (a) the person conducting a business or undertaking does not know, and could not reasonably be expected to know, before the work is carried out that the work involves processing engineered stone benchtops, panels or slabs; and
 - (b) as soon as practicable after the person conducting the business or undertaking becomes aware that the work involves processing engineered stone benchtops, panels or slabs, the person gives the regulator a written notice under subregulation (2) in relation to the work.
- (4) If the regulator receives a notice under subregulation (2) or (3), the regulator must give the person conducting the business or undertaking an acknowledgement of receipt of the notice.

529H Notification of change in information given under Part 8A.3

- (1) If the information given to the regulator in a written notice under this Part in relation to work changes (other than because the work is no longer being carried out), a person conducting a business or undertaking carrying out, or directing or allowing a worker to carry out, the work must, within the period ending 30 days after the day the change occurs, give the regulator a written notice:
- (a) stating the information has changed; and
 - (b) describing the change to the information.

Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier G monetary penalty.

- (2) If the regulator receives a notice under subregulation (1), the regulator must give the person conducting the business or undertaking an acknowledgement of receipt of the notice.

529I Notification that work continues 12 months after last notice given under Part 8A.3

- (1) This regulation applies if:
- (a) a person conducting a business or undertaking gives a notice under this Part in relation to work; and

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- (b) a period of 12 months beginning on the day the last notice is given about the work ends; and
 - (c) the work is still being carried out.
- (2) A person conducting a business or undertaking carrying out, or directing or allowing a worker to carry out, the work must, within the period of 30 days ending after the day the 12-month period ends, give the regulator a written notice stating:
- (a) the work is still being carried out; and
 - (b) any information given to the regulator that has changed.
- Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.
- Penalty: The tier G monetary penalty.
- (3) If the regulator receives a notice under subregulation (2), the regulator must give the person conducting the business or undertaking an acknowledgement of receipt of the notice.

529J Duty to keep notice given under Part 8A.3

A person conducting a business or undertaking who gives the regulator a notice under this Part must, for a period of 5 years beginning on the day the notice is given to the regulator:

- (a) keep a copy of the notice; and
- (b) ensure that a copy of the notice is readily accessible; and
- (c) allow a person to access a copy of the notice upon request.

Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier G monetary penalty.

Part 8A.4—Processing engineered stone other than benchtops, panels or slabs

529K Duty to prevent uncontrolled processing of engineered stone other than benchtops, panels or slabs

- (1) This regulation does not apply to engineered stone benchtops, panels and slabs.
- (2) A person conducting a business or undertaking must not process, or direct or allow a worker to process, engineered stone unless the processing of the stone is controlled.

Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier E monetary penalty.

Part 8A.5 Processing porcelain products and sintered stone

529L Duty to prevent uncontrolled processing of porcelain products and sintered stone

A person conducting a business or undertaking must not process, or direct or allow a worker to process, porcelain products and sintered stone unless the processing is controlled.

Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier E monetary penalty.

4 Subregulation 676(1) (after table item 65)

Insert:

65A 689A(1)—Refusal to exempt a particular type of engineered stone from regulation 529D Applicant

5 Paragraph 684(4)(b)

Omit “facility.”, substitute “facility; or”.

6 After paragraph 684(4)(b)

Insert:

(c) regulation 529D in relation to exempting a type of engineered stone from that regulation.

7 After Division 3 of Part 11.2

Insert:

Division 3A—Engineered stone

689A Engineered stone—exemption

- (1) The regulator may exempt a type of engineered stone from regulation 529D.
- (2) A person conducting a business or undertaking is exempt from compliance with regulation 529D if the work involves a type of engineered stone that is the subject of an exemption granted under:
 - (a) subregulation (1); or
 - (b) a corresponding WHS law that is equivalent to subregulation (1).

Note: A decision to refuse to grant an exemption is a reviewable decision (see regulation 676).

689B Engineered stone—application for exemption

- (1) A person with an interest in having an exemption granted under subregulation 689A(1) may apply to the regulator for an exemption.

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- (2) However, before the person can apply under subregulation (1), the person must give each social partner SWA member:
 - (a) a written notice stating:
 - (i) the person intends to make the application; and
 - (ii) the social partner SWA member may give the person submissions for the regulator about the application within the reasonable period stated in the notice; and
 - (iii) the person must provide the social partner SWA member's submissions to the regulator as part of the person's application; and
 - (b) a copy of the proposed application for the exemption.
 - (3) The person's application must be:
 - (a) in writing; and
 - (b) accompanied by the written notice the person gives each social partner SWA member under subregulation (2); and
 - (c) accompanied by any submissions received by the person from social partner SWA members under subregulation (2).
 - (4) In this regulation, **social partner SWA members** means:
 - (a) the 2 members of Safe Work Australia who represent the interests of workers in Australia; and
 - (b) the 2 members of Safe Work Australia who represent the interests of employers in Australia.

689C Engineered stone—notifying persons of application for exemption

- (1) The regulator must give the application documents in relation to an application for an exemption under subregulation 689A(1) to each corresponding regulator.
- (2) The regulator may also give the application documents for an application for an exemption under subregulation 689A(1) to:
 - (a) an employer organisation that includes employers who engage in work involving engineered stone; or
 - (b) a union representing employees whose work includes work involving engineered stone; or
 - (c) a person who has qualifications, knowledge, skills and experience relating to engineered stone.
- (3) In this regulation, **application documents**, in relation to an application for an exemption under subregulation 689A(1), means:
 - (a) a written notice stating:
 - (i) the regulator has received the application; and
 - (ii) the person receiving the notice may make submissions to the regulator about the application within the reasonable period set out in the notice; and
 - (b) a copy of:
 - (i) the application; and
 - (ii) any submissions that the regulator receives in relation to the application under paragraph 689B(4)(c).

689D Engineered stone—regulator to be satisfied about certain matters

- (1) The regulator must not grant an exemption under subregulation 689A(1) unless satisfied that granting the exemption will result in a standard of health and safety that is at least equivalent to the standard that would have been achieved without that exemption.
- (2) For the purposes of subregulation (1), the regulator must have regard to all relevant matters, including:
 - (a) any submissions received under paragraph 689B(4)(c) or regulation 689C; and
 - (b) whether the regulator is satisfied that, if the exemption were granted, the risk associated with the type of engineered stone that is the subject of the application would not be significant; and
 - (c) if Safe Work Australia publishes a document under regulation 689E—the relevant matters contained in the document.

689E Safe Work Australia may issue and publish document in relation to exemptions

- (1) Safe Work Australia may issue a document setting out the matters to be considered when granting an exemption under this Division.
- (2) Safe Work Australia must publish the document on the Safe Work Australia website.

Note: See the Safe Work Australia website (<https://www.safeworkaustralia.gov.au>).

8 Paragraph 692(1)(b)

Omit “apply”, substitute “apply, if applicable”.

9 Regulation 694

Repeal the regulation, substitute:

694 Notice of decision in relation to exemption

- (1) The regulator must give a copy of the exemption document referred to in regulation 692 within 14 days after making the decision to grant the exemption to:
 - (a) if a person applied for the exemption—the applicant; or
 - (b) if the regulator granted the exemption on the regulator’s own initiative and the exemption document is not a legislative instrument—each person to whom the exemption will apply.
- (2) If the regulator grants an exemption under subregulation 689A(1), the regulator must:
 - (a) notify each corresponding regulator that the exemption is granted; and
 - (b) publish on the regulator’s website the reasons for the decision within 14 days after the day the exemption is granted.

Note: Exemption documents under subregulation 689A(1) are legislative instruments, see the Register of Legislation website (<https://www.legislation.gov.au>). All exemptions could in 2024 also be viewed on the Safe Work Australia website (<https://www.safeworkaustralia.gov.au>).

10 Paragraph 698(1)(b)

Omit “to subregulation (2)”, substitute “to whom subregulation (2)”.

11 Subregulation 698(2)

After “persons”, insert “, or is granted under subregulation 689A(1),”.

12 After Part 5 of Chapter 12

Insert:

Part 8A—Engineered stone, porcelain products and sintered stone

Note: Part 8A makes transitional arrangements relating to Chapter 8A of these Regulations. The numbering of these Divisions and Subdivisions matches the Parts and Divisions of Chapter 8A.

Division 8A.2—Work involving engineered stone benchtops, panels or slabs**698A Particular work involving engineered stone—exception if carried out under pre-2024 contract**

- (1) Regulation 529D, as inserted by the *Work Health and Safety Amendment (Penalties and Engineered Stone and Crystalline Silica Substances) Regulations 2024*, does not apply to work that involves installing engineered stone benchtops, panels or slabs if:
 - (a) the work is carried out:
 - (i) under a contract originally entered into on or before 31 December 2023; and
 - (ii) on or before 31 December 2024 in a place to which a corresponding WHS law applies; and
 - (b) if the corresponding WHS law applied to the work, regulation 529D of the corresponding WHS law would not apply to the work under that law because the work was carried out on or before 31 December 2024.
- (2) Regulation 529D, as inserted by the *Work Health and Safety Amendment (Penalties and Engineered Stone and Crystalline Silica Substances) Regulations 2024*, does not apply to work if:
 - (a) the work involves supplying or processing engineered stone benchtops, panels or slabs to be installed under a contract referred to in subparagraph (1)(a)(i); and
 - (b) the work occurs on or before 31 December 2024 in a place to which a corresponding WHS law applies; and
 - (c) if the corresponding WHS law applied to the work, regulation 529D of the corresponding WHS law would not apply to the work under that law because the work occurred on or before 31 December 2024; and
 - (d) for work that involves processing the engineered stone—the processing is controlled.

698B Application—acquisition of property

Regulation 529D, as inserted by the *Work Health and Safety Amendment (Penalties and Engineered Stone and Crystalline Silica Substances) Regulations 2024*, has no effect to the extent (if any) that its operation would result in an acquisition of property (within the meaning of paragraph 51(xxxi) of the Constitution) from a person otherwise than on just terms (within the meaning of that paragraph).

Schedule 3—Crystalline silica substances

Work Health and Safety Regulations 2011

1 Subregulation 5(1) (definition of *controlled*)

Repeal the definition, substitute:

controlled, in relation to the processing of a CSS—see regulation 529B.

2 Subregulation 5(1)

Insert:

crystalline silica—see regulation 529A.

crystalline silica substance (CSS)—see regulation 529A.

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.

3 Subregulation 5(1) (definition of *processing*)

Repeal the definition, substitute:

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

4 Subregulation 5(1)

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.

5 Chapter 8A (heading)

Omit “**Engineered stone, porcelain products and sintered stone**”, substitute “**Crystalline silica**”.

6 Regulations 529A to 592C

Repeal the regulations, 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:
- (a) 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
 - (b) the use of roadheaders to excavate material that is a CSS; or
 - (c) the quarrying of a material that is a CSS; or
 - (d) mechanical screening involving a material that is a CSS; or
 - (e) tunnelling through a material that is a CSS; or

(f) 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**:

(a) means crystalline polymorphs of silica; and

(b) includes the following substances:

- (i) 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 paragraph (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 paragraph (1)(c) and subregulation (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.

Note 1: Regulations 529D and 529F apply to the processing of engineered stone.

Note 2: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier E monetary penalty.

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.

Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier E monetary penalty.

- (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 paragraph 529B(1)(b); and
 - (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.

Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier I monetary penalty.

- (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.

Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier E monetary penalty.

- (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.

Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier E monetary penalty.

- (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.

Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier E monetary penalty.

- (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.

Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier G monetary penalty.

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

Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier E monetary penalty.

- (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.

Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier I monetary penalty.

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

Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier I monetary penalty.

- (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 Part 3.2 also applies to a person conducting a business or undertaking involving the process 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 Part 7.1 of the Regulations.

Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier E monetary penalty.

7 Parts 8A.4 and 8A.5

Repeal the Parts.