

September 30th, 2026

VIA ELECTRONIC SUBMISSION

Cal/OSHA Research and Standards Branch
2520 Venture Oaks Way, Suite 350
Sacramento, CA 95833
RS@dir.ca.gov

Re: Comments on the discussion draft of Section 5204.1 (Crystalline Silica Activities Strictly Prohibited) and related amendments to Sections 5204 and 1532.3

Dear Research and Standards Branch Staff:

My name is Peter Dominguez, and I'm President of California Surfaces, a family-owned countertop fabricator and installer in Southern California. Thank you for the chance to comment on the initial draft of this proposed regulation.

Conventional high-silica quartz is on its way out in California, and our company has committed to that reality. We've stopped stocking it, we're working through or selling off what's left, and for the last six months we've been steering customers toward alternatives.

There is still a lot of work to be done. We're sitting on \$1 to 2 million in quartz inventory that we'll likely have to liquidate. Some of our existing contracts specify quartz, and each one of them requires figuring out solutions with customers on substitutions, cost, and schedule. We are continuously evaluating sources for alternative materials while pricing and shipping remain extremely volatile. Those challenges are ours to manage.

My concern is a regulation with loopholes wide enough for competitors to drive a flatbed through. As written, this draft lets companies that keep selling quartz undercut the shops that made the switch, and that works against the whole point of protecting workers.

If this rule gets challenged, and it will, it's on Cal/OSHA to have written one that holds up. Chair Alioto made the same point at the May 21 hearing. He warned that a decision built on facts not established in the record can be "readily attacked in the courts as arbitrary and capricious."¹ Parts of this draft go beyond the emergency the Board identified, lean on terms that are never

¹ Tre'Vaughn Howard, "Quartz Fabrication Ban Push to Test Cal/OSHA's Legal Limits," Bloomberg Law, June 5, 2026.

defined, and affect materials the record doesn't cover. Those are the parts that will get challenged, and a regulation tied up in an injunction doesn't help anybody.

Here are four changes that would make the rule fairer and harder to knock down:

1. Keep the emergency about the prohibition. Move the other 5204 changes to regular rulemaking.

The Board granted Petition 609 to prohibit fabricating and installing artificial stone above 1% crystalline silica. This draft does a lot more than that. It changes the rules for every fabrication shop under Section 5204: a new 3.0 µg/m³ artificial stone action level, tougher respirator requirements, and automatic Orders Prohibiting Use (OPUs) for respirator violations. Those changes would stick around even after a shop has stopped cutting quartz altogether.

The current silica standard went through regular rulemaking and was adopted in February 2025. Rewriting it permanently through an emergency action, with no feasibility record and no findings for each change, makes those changes look arbitrary. It also pulls attention away from the urgency of the prohibition itself. Cal/OSHA should take the non-essential 5204 amendments out of the emergency package and handle them through regular rulemaking.

2. Spell out how compliant material gets identified, and what happens when paperwork is missing.

Telling artificial stone under 1% crystalline silica apart from conventional quartz from a slab alone is difficult, if not impossible, even for those of us who see these slabs every day. Once conventional quartz is banned, there will be a big incentive for bad actors to relabel it as low-silica or amorphous. Without a real verification standard, you will see counterfeit slabs fill that gap, and the workers this rule is supposed to protect will be the ones cutting them.

The draft attempts to address the issue of identifying conventional quartz by requiring documentation on all slabs. However, this documentation requirement can't be so broad that it shuts down shops over paperwork that doesn't exist and without recourse. As written, any material without documentation is presumed to be prohibited artificial stone, and cutting it is an imminent hazard. A granite remnant from 2019 or a marble slab a customer brought in usually has no silica paperwork at all. Under this draft, cutting it could get a shop shut down.

That's absurd. The documentation requirement needs some changes.

First, for artificial stone, Cal/OSHA should accept a supplier invoice identifying the product and an SDS showing crystalline silica at or below 1%, as long as the manufacturer or importer can back that number with a test from an accredited lab. Cal/OSHA should say which test method and lab accreditation it will accept. Fabricators already keep invoices and SDSs, and the invoice ties each slab to a supplier who can be held responsible if the material turns out to be mislabeled.

Second, if a shop can't produce that paperwork during an inspection, give it a reasonable amount of time to get it or have the material tested, and set the material aside in the meantime. An Order Prohibiting Use should only come into play if the material tests above 1% or nothing gets produced.

To make supplier accountability real, Cal/OSHA should also consider spot testing slabs at suppliers and shops, with penalties for suppliers caught mislabeling. Also, natural stone shouldn't be subject to any of this (see point 3).

3. Explicitly exclude natural stone.

The scope of the proposed Section 5204.1 covers products "made from slabs or panels containing crystalline silica." That's almost every natural stone slab out there. And the definition of artificial stone, which covers any "composite" product made with "adhesives, polymers, epoxies, resins, or other binding materials," could be read to include natural slabs with resin-filled fissures or mesh backing, which is standard processing.

The evidence behind this rulemaking is about artificial stone. Cal/OSHA's own agenda for the July 31 advisory meeting listed natural stone as one of the safer alternatives fabricators should be moving to. It's hard to argue a rule is necessary when it sweeps in the very alternatives it's trying to promote.

Cal/OSHA should limit the scope to artificial stone and add a clear exclusion for natural stone quarried from the earth and cut into slabs, including slabs treated with resin, epoxy, or mesh backing during processing.

4. Include installation, with a narrow exception for product that's already installed.

The Board's May 21 vote was to prohibit fabrication and installation. The draft exempts installation, maintenance, and repair instead, including "final on-site modification," and the only limit is "minor on-site adjustments," which it never defines.

That's a loophole. Quartz countertops can be fabricated overseas, shipped into California, and trimmed on site to fit. California shops that followed the rules lose the work to overseas labor. The local company arranging it gets a cost advantage by continuing to specify cheap quartz. And the cutting that's left moves to job sites, where dust is hardest to control and exposure is hardest to monitor. The ban would cut exposure in shops and push it up in the field.

It also doesn't follow the rule's own logic. If cutting artificial stone above 1% is an imminent hazard in a shop, why is cutting the same material on a job site allowed with no real limit?

To close the loophole, Cal/OSHA should:

- Apply Section 5204.1 to the installation of artificial stone above 1% crystalline silica.
- Define "minor modification" as a change limited in scope in which the product's features and purpose remain, such as enlarging a faucet hole or trimming an existing cooktop cutout to fit a replacement unit.

California Surfaces supports a rule that works, and one that doesn't create new problems for fabricators who are working hard to operate safely. Keep the emergency focused on the hazard the Board identified. Give employers a clear, verifiable way to comply. Don't penalize natural stone, which the Division itself calls a safer alternative. And close the loophole that would otherwise reward the companies least committed to the transition.

One final note: we've used Cal/OSHA Consultation's free on-site program for several years, most recently this summer. The consult staff were extremely knowledgeable and caught gaps in our training and safety documents that we had overlooked. Programs like this are how shops get safer, and they'll matter even more during the changes the Board is proposing and after. Shops are going to have real questions about identifying materials, dealing with leftover inventory, and setting up controls for alternative products, and Consultation is well positioned to help answer

them. I'd encourage the Division to make sure Consultation has the staff to meet that demand and help get the word out to shops that the program is free and separate from enforcement.

I'm happy to answer questions about any of this.

Sincerely,

Peter Dominguez
President, California Surfaces

peterd@calsurfaces.com