

INTERNATIONAL SURFACE FABRICATORS ASSOCIATION

Safety, Health and Regulatory Compliance

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Research and Standards Branch

Division of Occupational Safety and Health

California Department of Industrial Relations

Submitted electronically to RS@dir.ca.gov

cc: Occupational Safety and Health Standards Board (oshsb@dir.ca.gov)

Eric Berg, Deputy Chief for Health, Division of Occupational Safety and Health

Re: Comments of the International Surface Fabricators Association on the September 16, 2026 Discussion Draft — §5204.1, “Crystalline Silica Activities Strictly Prohibited,” and conforming amendments to §§5204 and 1532.3 — and submission of an alternative: the Fabrication Shop Licensing and Compliance Audit Program.

I. Statement of Position

The International Surface Fabricators Association submits these comments on behalf of the countertop and surface fabrication industry. ISFA is a 501(c)(6) trade association representing fabrication shops across North America, and our members employ the workers this rulemaking is about.

We begin where the Division begins. Between 2019 and 2026, California recorded **592 cases of silicosis** among engineered stone fabrication workers, **31 deaths**, and **65 lung transplants**. The median age at diagnosis was 46. The mean age at death was 52. Ninety-eight percent of the patients were Latino, and nearly all were men. ISFA does not dispute a single one of those numbers, does not minimize them, and does not ask this Division to weigh them against anything. They are the reason this proceeding exists and the reason ISFA is in it.

ISFA does not support the September 16 discussion draft in its present form. Our concern is not with the Division's objective, which we share, but with whether a prohibition framed around a product category will reach the operators whose practices produced the cases described above. We set out our reasoning below, together with an alternative we believe reaches further.

The Division's evaluation of Petition 609 established the operative facts. Between December 2023 and February 2026, the Division inspected **135 fabrication operations** out of an estimated **1,342** in California — approximately ten percent. Of 127 closed inspections, **120 shops were cited**, and **25 received Orders Prohibiting Use**. The Division further found that a compliant shop costs **at least \$250,000** to establish while a non-compliant shop can open for approximately **\$30,000**, against an average penalty of **\$14,000**.

ISFA reads those figures as describing a compliance and verification challenge alongside the materials question. An operator willing to work outside the law today carries a substantial cost advantage over a compliant shop, and roughly 1,207 California fabrication operations have not yet been reached by an inspection. A prohibition operates directly on the shops the Division can identify. ISFA's concern, offered constructively, is that it may have less effect on the operations the Division has not yet been able to locate, and that those are the operations where the surveillance data suggest the greatest risk lies.

ISFA therefore submits an alternative, set out in full regulatory text at Part V of these comments: a Fabrication Shop Licensing and Compliance Audit Program, codified as a new §5204.2. It conditions the right to fabricate any high-silica slab material — engineered, natural, porcelain, sintered or composite — on holding a license; conditions the license on an independent third-party audit conducted by an accredited body; and conditions the supply chain on selling only to licensees. It binds worker safety education, medical surveillance, supply chain due diligence and slab-level inventory control into the license itself, so that a shop cannot buy material without being visible to the state.

That framework attacks the mechanism the Division's own data identify. A prohibition asks the Division to find the shop. A license asks the shop to find the Division before it can buy a slab. **Market access, rather than inspection luck, becomes the enforcement trigger.**

Part IV of these comments addresses the discussion draft provision by provision, as requested. We have not skipped provisions we agree with, and we identify them where they occur. Several of the matters we raise appear to us to be drafting issues rather than policy choices, and we bring them forward in that spirit: they can be corrected quickly, whatever the Board ultimately decides on the merits.

Where ISFA and the Division agree

ISFA begins with the matters on which we believe there is no disagreement, because they define the common ground from which the balance of these comments is offered.

The disease burden is real, and it is documented in the peer-reviewed literature. The California case series reported by Fazio and colleagues in JAMA Internal Medicine (2023; doi:10.1001/jamainternmed.2023.3295) and the 2019–2026 series in NEJM Evidence (doi:10.1056/EVIDpha2600187) establish a pattern of accelerated silicosis among engineered stone fabrication workers that ISFA does not dispute in any respect. The systematic review by Leso and colleagues (Int J Environ Res Public Health 2019;16(4):568, doi:10.3390/ijerph16040568) reached the same conclusion internationally.

Dry fabrication methods must not be used, and ISFA supports their prohibition without qualification. Soo and colleagues measured full-shift respirable crystalline silica exposures of 32 to 5,100 $\mu\text{g}/\text{m}^3$ among workers using exclusively dry methods in stone countertop fabrication shops (Ann Work Expo Health 2025;69(5):473–485, doi:10.1093/annweh/wxaf014). ISFA agrees with the Division and with the Legislature that this practice has no place in the trade.

Wet methods alone are not sufficient, and ISFA agrees with the Division on this point as well. In the same study, approximately 48 percent of samples from workers using wet techniques still exceeded the federal permissible exposure limit. The controlled experimental work of Johnson and colleagues reached a consistent result for powered hand tools (Ann Work Expo Health 2017;61(6):711–723, doi:10.1093/annweh/wxx040). ISFA's alternative at Part V is built on the full hierarchy of controls for this reason, and ISFA supports the draft's prohibition on intermittent water sources at §5204(b)(17).

Engineered stone dust has characteristics that distinguish it from natural stone dust, and ISFA accepts the Division's concern on this point. Ramkissoon and colleagues found engineered stone dust to exceed 80

percent respirable crystalline silica against 4 to 30 percent for the natural stones tested, with finer particle size, greater specific surface area and higher zeta potential (Sci Rep 2022;12:4351, doi:10.1038/s41598-022-08378-8), and reported on the resulting lung cell response in *Respirology* (2024, doi:10.1111/resp.14625). ISFA cites this work because it supports the Division's premise, and because it also bears on the derivation question addressed at Part IV.B.2.

ISFA further supports the draft's application of baseline controls to trigger tasks without an exposure trigger, its recognition of medical surveillance, and the assigned protection factors stated in Exception 1 at §5204(h)(3)(A), which are correct as written.

ISFA's comments below proceed from that shared foundation. Where we identify a technical or drafting concern, we do so to assist the Division in producing a standard that survives review and achieves what both the Division and this industry want it to achieve.

II. The Process This Draft Emerged From

On **May 21, 2026**, the Occupational Safety and Health Standards Board voted unanimously to grant Petition 609 and directed the Division to do two things: prepare the finding of emergency required to support expedited proceedings, **and** simultaneously convene advisory committees, **including a scientific advisory committee, to evaluate the feasibility and implications** of potential worker protections.

The scientific advisory committee has not yet met. ISFA has inquired about scheduling and understands the Division is managing several concurrent obligations on a compressed timeline. A stakeholder advisory meeting was held on July 31, 2026 in Oakland. The regulatory language now before the public was posted on September 16, 2026, with comments due September 30. ISFA notes the shortness of that window only to explain why these comments focus on technical and drafting matters that can be resolved quickly.

ISFA is not asking anyone to slow down on protecting workers. We are asking that the questions the state itself put on the agenda for July 31 — definitions, scope, jurisdiction, enforcement capacity, existing inventory, installation and repair work, and what becomes of the workers — be answered before the state acts on them. Those answers are not ISFA's to give. They belong to California.

The emergency finding this draft would have to support

Government Code §11346.1(b) requires a finding of emergency that contains *“a description of the specific facts demonstrating the existence of an emergency and the need for immediate action,”* and expressly provides that a finding *“based only upon expediency, convenience, best interest, general public need, or speculation, shall not be adequate.”* The same subdivision requires that an emergency regulation *“address only the demonstrated emergency,”* and, where the situation existed and was known to the agency in sufficient time to have been addressed through non-emergency rulemaking, requires the agency to explain why emergency adoption was nonetheless necessary.

ISFA respectfully asks that the finding address three features of the present record, each of which a reviewing body would be likely to examine:

1. **The hazard has been known and regulated since December 2023.** The Division adopted an emergency temporary standard for respirable crystalline silica in December 2023, readopted it, and completed permanent rulemaking. The cases described in the 2019–2026 surveillance series were the basis for that rulemaking. An agency that has already twice used its emergency authority on the same hazard, and then completed a permanent standard on it, must explain what changed between the permanent

standard's adoption and September 2026 that could not have been addressed through ordinary rulemaking.

2. **The draft reaches beyond the demonstrated emergency.** The surveillance record documents disease among workers performing dry, uncontrolled, high-energy dust-generating operations. The draft prohibits “finishing” and “joining,” operations that generate no respirable crystalline silica; it reaches employers who fabricate compliant material; and its scope provision reaches every slab or panel “containing crystalline silica,” without threshold. Those extensions are not supported by the emergency the record demonstrates.
3. **The scientific advisory committee the Board ordered was directed at exactly the questions this draft answers by assertion.** The Board asked for a scientific evaluation of feasibility and implications. The draft sets an action level of $3.0 \mu\text{g}/\text{m}^3$, a value the reference analytical method cannot quantify (Part IV.B.2 below). Whether that number is achievable, measurable, or scientifically derived is precisely what the committee was convened to determine. Adopting it before the committee meets inverts the Board's direction.

Federal state-plan considerations

California's authority to adopt occupational safety and health standards more stringent than federal standards is not unlimited. Under 29 U.S.C. §667(c)(2), where a state-plan standard applies to *products which are distributed or used in interstate commerce*, the standard must be *required by compelling local conditions* and must *not unduly burden interstate commerce*. A prohibition on fabricating a product manufactured almost entirely outside California, and shipped into California in interstate and foreign commerce, squarely implicates that provision.

ISFA raises this not as a threat of litigation but as a design problem the Division should solve now rather than in front of a court. A framework that regulates the conditions of work in California — licensing, auditing, controls, surveillance — does not raise the question at all. A framework that prohibits the working of a particular out-of-state product does. The alternative at Part V is, among other things, the version of this policy that does not have to answer that question.

III. Principal Technical Observations

Before the provision-by-provision analysis, ISFA summarizes five observations that recur across the draft. Each is developed with citations at the indicated provision in Part IV. ISFA offers them as matters it believes the Division would want identified during the comment period rather than after adoption.

1. The relationship between the covered product category and measured silica content

The draft prohibits fabrication of “artificial stone” above 1.0% crystalline silica and expressly excludes fired ceramic and porcelain tiles and panels. Measured crystalline silica content, however, does not track those labels. Peer-reviewed determinations by XRD Rietveld refinement report **natural quartzite at 80–100 vol.%** — higher than traditional engineered stone at 58–91 vol.% — and **porcelain and sintered products at 7–29 vol.%**. The draft therefore prohibits the fabrication of a 58% material and permits the fabrication of a 95% material, in the same shop, on the same bridge saw, producing respirable dust of the same mineralogy. It also permits a 29% porcelain slab while prohibiting a 5% engineered slab.

This is not a marginal inconsistency. It is the substitution pathway. A shop that converts from engineered stone to porcelain, sintered stone or quartzite on day 61 is in full compliance with §5204.1 and is still cutting

crystalline silica with the same tools, and the workers are the same workers. Part IV.A.3 develops this. The alternative at Part V is written to be material-agnostic for exactly this reason.

2. The proposed action level in relation to the reference analytical method

The conforming amendment at §5204(b)(2) would define an “Artificial Stone Action Level” of **3.0 $\mu\text{g}/\text{m}^3$** as an 8-hour TWA. That number is OEHHA's **chronic inhalation Reference Exposure Level** for respirable crystalline silica, adopted in February 2005 for continuous, lifetime, general-population exposure including sensitive subgroups. It is an ambient environmental value, not an occupational one.

It is also below the analytical floor. For quartz by OSHA Method ID-142 — the reference method — the **detection limit of the overall procedure is 2.84 $\mu\text{g}/\text{sample}$, or 3.48 $\mu\text{g}/\text{m}^3$** at the method's 816-litre full-shift air volume, and the **reliable quantitation limit is 9.76 $\mu\text{g}/\text{sample}$, or 12.0 $\mu\text{g}/\text{m}^3$** . The proposed action level sits below the detection limit and at roughly one-quarter of the reliable quantitation limit. OEHHA's own document records California ambient background respirable crystalline silica at **0.2–2.3 $\mu\text{g}/\text{m}^3$** .

Because the reference method does not report reliably at this concentration, an employer would have difficulty documenting compliance and the Division would have difficulty documenting a violation. This matters because, under the draft, exposures not held below this level through wet methods alone are treated as an imminent hazard carrying an Order Prohibiting Use, and the 180-day inventory exception is available only to employers in full compliance with the section containing it. ISFA believes the practical effect is unintended and is straightforward to correct. Part IV.B.2 develops this with the underlying figures.

3. The treatment of onsite installation, maintenance and repair

The conforming amendment at §1532.3 exempts onsite installation, maintenance and repair from §5204.1 entirely, and defines “Installation” to include “final on-site modification.” Shop fabrication — performed with engineered wet-method saws, local exhaust ventilation, slurry containment, and change and shower facilities — is prohibited. Onsite cutting in an occupied kitchen, by a two-person crew with a hand grinder and no containment, is not. Every exposure determinant is worse on the jobsite. Part IV.C develops this.

4. Reach of the draft across the fabrication population

The Division's own evaluation found 94% of inspected shops in violation, 20% shut down by Order Prohibiting Use, and 90% of California's fabrication operations never inspected at all. A prohibition operates only on employers the Division can observe. It does nothing to the \$30,000 shop, which is already operating outside the law and will continue to, with the additional protection that its entire activity is now illegal and therefore has no reason to appear in any state record. Part V is ISFA's answer: licensing plus supply chain due diligence removes that shop's access to material, which no inspection regime has ever been able to do.

5. Provisions that appear to require reconciliation

Subsection (f) mandates an Order Prohibiting Use for any fabrication of artificial stone above 1.0%, with no exception for the very inventory work subsection (h) permits. Subsection (g)(1) requires documentation of silica content that cannot be obtained without performing the prohibited act. The amended §5204(g) lists the same violations in both a mandatory and a discretionary Order Prohibiting Use provision. The respirator provisions at §5204(h)(3) misstate the assigned protection factor for a helmet or hood PAPR and for a full facepiece pressure-demand supplied-air respirator, and specify filter classes that NIOSH does not approve for powered air-purifying respirators. And Exception 2 conditions relief on knowledge of former employees' medical histories that the employer is barred by law from obtaining. These are set out at Part IV with proposed corrections, and ISFA asks that they be fixed regardless of the outcome on the merits.

IV. Line-by-Line Analysis

ISFA addresses every subsection of the discussion draft. Each entry quotes the draft, states the defect, and states ISFA's recommendation. Subsection letters for §5204.1 follow the automatic lettering of the September 16 text: (a) Scope, (b) prohibition and effective date, (c) Definitions, (d) Employee notification, (e) Signs, (f) Imminent hazard, (g) Recordkeeping, (h) Limited Exception, (i) Severability. *Where ISFA supports a provision, it says so.*

A. Proposed §5204.1 — Crystalline Silica Activities Strictly Prohibited

A.1 §5204.1(a) — Scope

“This section applies to the manufacture or fabrication of countertops, backsplashes, walls, flooring, waterfall countertop edges, and similar products made from slabs or panels containing crystalline silica in any place of employment.”

Comment. The scope is broader than the operative rule it introduces. Subsection (a) reaches slabs or panels “containing crystalline silica” with no threshold, while subsection (b) prohibits only artificial stone above 1.0%. Read as written, the section applies to marble at under 5% silica, to granite, to porcelain and to natural quartzite — materials the draft does not prohibit. An employer reading (a) cannot determine whether the section applies to its operations. That is a clarity defect under Government Code §11349(c) and a ground for disapproval under §11349.1(a)(3).

Comment. “And similar products” is undefined. Fabricators produce shower surrounds, tub decks, fireplace surrounds, windowsills, table and bar tops, furniture, signage and cladding from the same slabs. Whether these are “similar products” determines whether a criminal-adjacent prohibition applies to a given job. The term cannot carry that weight.

Comment. The scope contains no exclusion for research, sampling, analysis or forensic examination. Australia's prohibition — the only comparable regime in force — expressly excludes genuine research and analysis and sampling and identification. Without that exclusion, the accredited laboratory that prepares a coupon to determine silica content is itself performing “fabrication” under subsection (c)(3). This interacts destructively with the recordkeeping requirement at (g)(1); see A.7 below.

ISFA recommendation. Withdraw the section. If the Division proceeds, conform the scope threshold to the operative threshold in (b); replace “and similar products” with an enumerated list; and add express exclusions for research, sampling, identification and analysis.

A.2 §5204.1(b) — Prohibition and effective date

“Effective [OAL INSERT EFFECTIVE DATE OF EMERGENCY REGULATION PLUS 60 DAYS], the manufacture or fabrication of artificial stone containing more than 1.0% crystalline silica by weight is strictly prohibited in any place of employment.”

Comment — the prohibition runs against the work, not the product. Slabs above 1.0% remain lawful to manufacture elsewhere, import into California, warehouse in California, sell in California and install in California. Only the act of fabricating them in a California workplace is prohibited. The predictable result is that fabrication relocates — to Nevada, to Arizona, to Baja California — and the finished tops are shipped back across the state line for installation by California crews. The same workers, many of them the same individuals, perform the same cutting in jurisdictions with less enforcement capacity than California has. The disease does not stop. It stops being reportable to CDPH. ISFA asks the Division to state, on the record, its estimate of cross-border fabrication displacement and how it proposes to measure it.

Comment — the sixty-day period in relation to equipment and contract cycles. Bridge saws, CNC routers, waterjets, slurry management systems and dust collection infrastructure configured for engineered stone are generally not redeployable within sixty days. Fabrication contracts on multi-family, hospitality and healthcare projects are commonly written 12 to 36 months in advance, and supply contracts typically run 90 to 180 days. The draft does not presently address contracts in force on the effective date. ISFA asks the Division to consider a transition period keyed to those commitments, and would be glad to supply member data on equipment and contract timelines to inform it.

Comment — “by weight” is not the unit in which this quantity is reported. Supplier safety data sheets report crystalline silica as a percentage range, frequently by weight but not always, and the peer-reviewed determinations report volume percent by XRD Rietveld refinement. The draft specifies no analytical method, no sampling protocol, no conversion between mass and volume basis, and no acceptable documentary form. An employer cannot determine on which side of the line a given slab falls.

Comment — 1.0% is not derived. The draft offers no basis for the threshold. It is not a dose-response inflection. It is not the Hazard Communication carcinogen disclosure threshold, which is 0.1% for an IARC Group 1 carcinogen such as respirable crystalline silica. It appears to be borrowed from the general 1% hazardous-substance disclosure convention, which was never intended as an exposure-control threshold. The Division has published no exposure modelling showing that fabrication of a 1.1% slab produces materially different worker exposure from fabrication of a 0.9% slab.

Comment — the adverb “strictly.” ISFA suggests the word may be read as importing strict liability, which could sit awkwardly with the citation classification and abatement scheme under Labor Code §6432. ISFA recommends deleting it here and in the section title, which would leave the operative prohibition unchanged.

ISFA recommendation. Strike. If a phase-out is retained in any form, it must run not less than 24 months, must honor contracts in force, and must be paired with the licensing framework at Part V so that the shops the Division has never inspected are brought into view before, not after, the material changes.

A.3 §5204.1(c)(1) — Definition of “Artificial Stone”

“Artificial Stone” means any reconstituted, artificial, synthetic, composite, engineered, or manufactured stone product. It is commonly made by combining natural stone or other crystalline silica-containing materials with adhesives, polymers, epoxies, resins, or other binding materials to form a slab. Fired ceramic and porcelain tiles and panels are not artificial stone.”

Comment — the definition does not track the hazard. Published crystalline silica determinations by XRD Rietveld refinement report: engineered stone 0–91 vol.% (traditional products 58–91 vol.%, “low silica” variants up to 28 vol.%, “zero silica” products under 1 wt.%); **natural quartzite 80–100 vol.%;** granite *sensu stricto* 16–57 vol.%; porcelain and sintered products 7–29 vol.%; marble 0–5 vol.%. The draft prohibits the category with the **second-highest** measured silica content and leaves the highest — natural quartzite — entirely unregulated by this section. Fabricating a quartzite slab at 95% crystalline silica remains lawful on the day a 58% engineered slab becomes an imminent hazard.

Comment — the porcelain and sintered carve-out is the substitution pathway. Porcelain and sintered slabs are fabricated on the same bridge saws and CNC tables, at the same feed rates, generating respirable dust at comparable rates, and they measure up to 29 vol.% crystalline silica. Excluding them by name means a shop can comply with §5204.1 in full, on day 61, by changing its purchase order and nothing else. ISFA's members are already being marketed these materials as the compliance answer. If the Division believes porcelain

fabrication is materially safer, it should place the comparative task-based exposure data on the record. We are not aware that such data exist.

Comment — the carve-out is also vague at its own boundary. “Fired ceramic and porcelain tiles and panels” does not clearly resolve the status of sintered stone products, which are densified by sintering rather than conventionally fired, are marketed as neither ceramic nor porcelain, and in some formulations contain polymeric constituents that would bring them within the first sentence of the definition. Vagueness at the boundary of a prohibition is where clarity matters most.

Comment — scope of the definition. “Or manufactured stone product,” read with the second sentence, appears to reach cast concrete countertops, terrazzo and cultured marble, none of which is expressly excluded. ISFA requests clarification whether the Division intends the definition to extend to those materials, and offers to assist in drafting an exclusion if it does not.

ISFA recommendation. Strike the definition. Regulate the task and the control, not the trade name. Proposed §5204.2(b)(4) at Part V defines “covered material” by measured crystalline silica content across all slab and panel materials, which is the only definition that cannot be defeated by a purchase order.

A.4 §5204.1(c)(2) — Definition of “Manufacture”

“Manufacture’ means to make, produce, or otherwise create artificial stone slabs containing crystalline silica by combining or otherwise processing crystalline silica containing materials with adhesives, resins, pigments, or other materials.”

Comment. ISFA does not object to the definition’s internal construction. We note that slab manufacturing of consequence does not occur in California; the activity prohibited by this clause is already almost entirely extraterritorial. The provision therefore delivers little worker protection while creating the appearance of comprehensive coverage. ISFA asks the Division to state on the record how many artificial stone slab manufacturing establishments operate in California and how many California workers are employed in them.

Comment. Applied to a California manufacturer developing reduced-silica or recycled-content slab products, the clause forecloses domestic development of the very substitutes the Division’s Petition 609 evaluation assumes will replace artificial stone. A product containing 1.1% crystalline silica by weight — functionally silica-free — cannot lawfully be developed or produced here. That is the opposite of the intended effect.

ISFA recommendation. If retained, add an exclusion for manufacture of products at or below a defined low-silica threshold, and for pilot and development quantities under controlled conditions.

A.5 §5204.1(c)(3) — Definition of “Fabrication”

“Fabrication’ means to process, modify, alter, shape, or otherwise transform a manufactured artificial stone slab containing crystalline silica into a final or near-final product for its intended use by cutting, grinding, drilling, routing, polishing, finishing, joining, or otherwise processing a manufactured slab.”

Comment — the definition reaches operations that generate no respirable crystalline silica. “Joining” is seaming with adhesive. “Finishing” includes applying sealer and buffing a cured seam. Neither liberates respirable dust. A prohibition that reaches non-dust-generating operations is not tailored to the hazard it recites and will not survive review for necessity under Government Code §11349(a) and §11349.1.

Comment — “or otherwise processing” has no limit. Templating, measuring, handling, crating and transporting a slab are all arguably “processing.” The draft provides no de minimis.

Comment — the definition is in direct conflict with the construction amendment. Here, transforming a slab “into a final or near-final product” is prohibited. At §1532.3, “Installation” is defined to include “final on-site modification,” and is exempted. The same cut — easing a scribe, enlarging a cooktop cutout, re-cutting a sink rail — is an imminent hazard in a shop with engineered controls and lawful in a customer's kitchen with none. See Part IV.C.

ISFA recommendation. If any definition of fabrication is retained, limit it to operations that mechanically liberate respirable dust — cutting, grinding, drilling, routing, abrasive polishing, chipping and breaking — and exclude adhesive joining, sealing and non-abrasive finishing. Then apply the same definition on the jobsite as in the shop.

A.6 §5204.1(d) — Employee notification

“The employer shall notify all employees, verbally and in writing in a language understood by employees, that the manufacture or fabrication of artificial stone containing crystalline silica is dangerous to life and health, and that its manufacture or fabrication is prohibited in any workplace.”

Comment — the required statement is inaccurate as applied and inconsistent with (b). The notice drops the 1.0% threshold. It requires every covered employer to tell its workforce that fabrication of artificial stone “containing crystalline silica” — any amount — is dangerous to life and health and is prohibited in any workplace. An employer lawfully fabricating a compliant product at or below 1.0% would be compelled to tell its employees that its own lawful work is prohibited and lethal. Compelled speech that is false as applied is not a defensible regulatory requirement, and it will not be believed by the workers it is addressed to — which is the practical cost.

Comment — “dangerous to life and health” is a term of art and this is not what it means. “Immediately dangerous to life or health” is defined in §5144 and in NIOSH practice as an atmosphere posing an immediate threat to life, causing irreversible adverse health effects, or impairing an individual's ability to escape, within thirty minutes. Respirable crystalline silica at fabrication concentrations is a serious chronic hazard; it is not an IDLH atmosphere. Read literally, the phrase would import §5144's IDLH obligations — standby personnel, communications, retrieval equipment — into every fabrication shop in California. ISFA does not believe the Division intends that. The drafting should not permit it.

Comment — no timing, frequency, content or form. Subsection (g)(2) requires records of the notification, but (d) specifies neither what the notification must contain beyond the quoted sentence, nor when it must be given, nor how often it must be repeated, nor in what form. This is unenforceable as drafted and will produce non-uniform practice.

ISFA recommendation. If a notice requirement is retained: tie it to the actual threshold; replace “dangerous to life and health” with “a serious health hazard that can cause disabling and fatal lung disease”; require delivery before first assignment and annually thereafter; and specify minimum content. ISFA's bilingual silica awareness training, delivered weekly in English and Spanish, already meets that standard and is available to the Division for review.

A.7 §5204.1(e) — Signs

“The employer shall post highly visible signs at all entrances to the workplace with the following: ARTIFICIAL STONE (ENGINEERED STONE, QUARTZ) WITH CRYSTALLINE SILICA IS PROHIBITED! ARTIFICIAL STONE WITH CRYSTALLINE SILICA IS DANGEROUS TO LIFE AND HEALTH! ...”

Comment — the posting obligation falls on employers the prohibition does not reach. Because subsection (a) defines scope by reference to slabs “containing crystalline silica,” a shop that fabricates only marble, granite or porcelain is within scope and must post signs announcing that artificial stone is prohibited and lethal. So must a shop that has never fabricated artificial stone. The requirement is unmoored from the hazard at the posting location.

Comment — the IDLH problem, now in permanent signage. See A.6. Posting “DANGEROUS TO LIFE AND HEALTH” at every entrance of a facility with no IDLH atmosphere degrades a signal that fire service pre-planning and emergency response rely on. Cal/OSHA should be protective of its own terminology.

Comment — no sign specification. The draft specifies no letter height, no color, no contrast, no durability, no material, no mounting height and no placement standard. Compare §3340, Accident Prevention Signs, and ANSI Z535.2. “Highly visible” is not a specification, and an inspector and an employer will not read it the same way.

Comment — two languages on the face of the rule creates a ceiling where §3203 and §5204(l) create a floor. The California fabrication workforce includes, beyond English and Spanish speakers, significant numbers of Mandarin, Cantonese, Vietnamese, Armenian, Portuguese, Punjabi and Tagalog speakers. A rule that enumerates two languages will be read as satisfying the obligation with two.

Comment — the contribution of signage to exposure reduction. ISFA supports hazard communication and posts warning signage in member shops. We note that signage functions as a communication measure rather than an exposure control, and we respectfully ask the Division to describe the exposure reduction it attributes to this subsection so that the record reflects its intended role alongside the engineering controls elsewhere in the draft.

ISFA recommendation. Strike. If signage is retained, specify it to §3340 and ANSI Z535.2, apply it only to workplaces where the material is actually present, require the language or languages actually understood by the employees at that location, and place the sign at the point of the hazard rather than at the property line.

A.8 §5204.1(f) — Imminent hazard and Order Prohibiting Use

“Any manufacturing or fabrication of artificial stone with more than 1.0% crystalline silica shall be considered an imminent hazard and shall be subject to an Order Prohibiting Use from the Division.”

Comment — this exceeds the statutory predicate for an Order Prohibiting Use. Labor Code §6325 authorizes the Division to prohibit use where a place of employment, machine, device, apparatus or equipment is in a dangerous condition such that use would create a real and apparent hazard to employees. That is a condition-based determination made on observation. This subsection converts a categorical product rule into a statutory imminent-hazard finding without regard to any condition at the site — controls, exposures, training, respiratory protection and medical surveillance are all irrelevant to it. It also forecloses the employer's ability to contest the condition, because the condition has been defined as the activity.

Comment — relationship between subsection (f) and the exception at (h). Subsection (h) permits an employer to continue fabricating pre-existing inventory for 180 days. Subsection (f) contains no corresponding exception and provides that the Division shall issue an Order Prohibiting Use for such fabrication. As drafted, an employer acting within (h) would appear to fall within (f). ISFA asks the Division to reconcile the two, which a short cross-reference in (f) would accomplish.

Comment — no notice, abatement or appeal provision. The subsection specifies no pre-issuance notice, no abatement pathway, no duration, and no expedited appeal. Given that the consequence is closure of the business, those omissions are consequential.

ISFA recommendation. Strike. ISFA does not oppose the use of Order Prohibiting Use authority in this industry — it opposes untethering it from conditions. Proposed §5204.2(k)(1) at Part V applies Order Prohibiting Use authority to **unlicensed operation**, which is a condition an inspector can verify at the door in thirty seconds without an air sample, and which is the condition most strongly associated with the deaths in this record.

A.9 §5204.1(g)(1) — Documentation of silica content

“The employer shall maintain documentation sufficient to demonstrate that a material subject to this section contains 1.0% or less crystalline silica by weight or that the material is not artificial stone. In the absence of such documentation, the employer and Division shall treat the material as artificial stone containing greater than 1.0% crystalline silica by weight.”

Comment — a presumption with no specified means of rebuttal. The subsection creates an adverse presumption and then declines to say what would overcome it. No analytical method is named. No laboratory accreditation is required. No bulk sampling protocol, sample size, replicate count, frequency, or retention period is stated. No acceptable documentary form is identified — safety data sheet, mill certificate, supplier declaration, or third-party test report. Safety data sheets routinely report crystalline silica as a range such as “10–40%,” which can never demonstrate “1.0% or less.”

Comment — obtaining the required documentation. A defensible determination of crystalline silica content requires preparing a bulk sample, which means cutting a coupon and milling it for X-ray diffraction. Cutting a coupon from an artificial stone slab appears to fall within “fabrication” under (c)(3). ISFA reads this as an unintended interaction rather than a deliberate one, and believes a brief exclusion for sampling, analysis and identification — comparable to the exclusion adopted in the Australian prohibition — would resolve it. ISFA asks that it be added whatever the Board decides on the merits.

Comment — placement of the evidentiary rule. The phrase “the employer and Division shall treat the material as ...” addresses how evidence is weighed in an enforcement proceeding. Burdens and presumptions before the Appeals Board are ordinarily governed by Labor Code §6432, the Appeals Board's own regulations and the Evidence Code. ISFA suggests that a Title 8 safety order may not be the most durable instrument for this provision, and that it may be more secure if addressed in that framework instead.

Comment — application to legacy material. Remnants, re-work, warranty repairs and slabs acquired second-hand commonly arrive without documentation. Under this subsection they would be presumed prohibited, which would affect a shop completing a job begun before the effective date using a remnant from the same lot. ISFA asks the Division to consider a documentation alternative for legacy stock, and offers to help develop one.

ISFA recommendation. Specify the analytical method (X-ray diffraction on a prepared bulk sample, by a laboratory accredited to ISO/IEC 17025 for the method); specify an acceptable supplier certification in the alternative, with stated minimum content; specify a retention period tied to §3204; and expressly authorize sample preparation notwithstanding subsections (b) and (f). Proposed §5204.2(f) at Part V sets out ISFA's supply chain due diligence provision, which puts the certification obligation on the party that actually knows the answer — the manufacturer.

A.10 §5204.1(g)(2) — Records of employee notification

“The employer shall maintain records of employee notifications required in subsection (d) ...”

Comment. No retention period, no required content, no form, and no employee or representative access provision. Section 5204(n) and §3204 establish retention and access rules for exposure and medical records; the draft's silence leaves it ambiguous whether §3204 governs these records. ISFA does not object to the requirement — we object to its incompleteness.

ISFA recommendation. Specify a retention period of not less than the duration of employment plus thirty years, consistent with §3204, and expressly provide employee and representative access.

A.11 §5204.1(h) — Limited Exception

“Employers may continue to manufacture or fabricate artificial stone containing greater than 1.0% crystalline silica by weight that the employer purchased, contracted for, or had in its possession prior to [EFFECTIVE DATE]. However, no manufacture or fabrication of any kind may occur after [EFFECTIVE DATE PLUS 180 DAYS]. This exception applies only to employers that fully comply with section 5204.”

Comment — the “full compliance” condition. The exception is conditioned on full compliance with §5204. The conforming amendment at §5204(f)(2)(A) requires that wet methods reduce all employee exposures below the action level or the artificial stone action level, without regard to respirator use. The artificial stone action level is proposed at 3.0 µg/m³, which is below the detection limit of the overall procedure for quartz by OSHA ID-142 (3.48 µg/m³ at the method's full-shift air volume) and approximately one quarter of its reliable quantitation limit (12.0 µg/m³). An employer would therefore have difficulty producing a sampling result establishing the condition. ISFA does not believe this result is intended, and raises it because resolving the action level question resolves this one as well.

Comment — conflict with (f). See A.8. Subsection (f) mandates an Order Prohibiting Use for the exact work (h) permits, with no cross-reference.

Comment — no documentation standard for eligibility. “Purchased, contracted for, or had in its possession” requires proof of a date, but (g)(1) simultaneously presumes undocumented material to be prohibited. An employer with a slab on the rack and a lost invoice has no path.

Comment — 180 days does not match the contracting cycle. Commercial fabrication contracts — multi-family, hospitality, healthcare, tenant improvement — are let 12 to 36 months in advance with material allocated to the project at award. The draft has no provision for work under contract on the effective date. The fabricator, not the developer, will carry that breach.

Comment — there is no disposal pathway, and disposal is itself an exposure event. Stranded slabs must be broken to be transported and landfilled. Intentional breaking is a high-exposure trigger task under §5204. The draft prohibits fabrication, creates a stranded inventory, and is silent on who may break it, under what controls, to what facility, and at whose cost. Australia's scheme addresses disposal of prohibited product expressly. This draft does not address it at all.

Comment — economic impact on fabrication employment and capital. The Petition 609 evaluation describes the impact of a prohibition on jobs in fabrication and construction as negligible. ISFA asks that the record be supplemented with the estimated number of California fabrication workers, the estimated capital stock configured for artificial stone fabrication, and the basis for the displacement conclusion, so that the Board can weigh it. ISFA holds member data on both points and offers it to the Division for that purpose.

ISFA recommendation. Strike. If a transition provision is retained, it must (1) run not less than 24 months; (2) honor contracts in force on the effective date; (3) condition eligibility on participation in a licensing and audit

program rather than on an unmeasurable exposure demonstration; (4) provide a controlled disposal pathway with specified controls; and (5) be accompanied by a worker transition provision. ISFA will help build the last of these; we have a registered apprenticeship program in development with the U.S. Department of Labor and a 436.5-hour technical instruction curriculum that is the natural vehicle for retraining displaced fabricators.

A.12 §5204.1(i) — Severability and savings clause

“If any provision of this section ... is held invalid, unconstitutional, or unenforceable ... the remainder of the section ... shall remain in full force and effect. The expiration, repeal, rescission, or amendment of this section shall not affect any liability, penalty, enforcement action ... arising from a violation that occurred while this section was in effect ...”

Comment — severability cannot save an interdependent scheme. The operative provisions are not severable in fact. If the 1.0% threshold in (b) falls, the imminent-hazard provision in (f) has no referent and the presumption in (g)(1) has nothing to presume. If the exception in (h) falls, (f) prohibits work the Division has represented is permitted. A severability clause does not cure interdependence; it only signals that the drafter anticipates the question.

Comment — the savings clause reaches further than a safety order can. The second sentence would preserve liability and penalties arising under a regulation subsequently held **invalid or unconstitutional**. A penalty premised on an invalid regulation cannot be preserved by that regulation's own terms. Retroactive preservation of liability is a matter for statute and is outside the Board's standards-setting authority under Labor Code §142.3.

ISFA recommendation. Retain an ordinary severability clause if the section is adopted. Strike the second sentence.

B. Conforming amendments to §5204 — Occupational Exposures to Respirable Crystalline Silica

B.1 §5204(a)(5) — Cross-reference

“Section 5204.1 also applies to artificial stone with more than 1.0% crystalline silica.”

Comment. Circular and incomplete. Section 5204.1 establishes its own scope; the cross-reference adds nothing and does not answer the question that matters, which is whether §5204 continues to apply to work performed under the §5204.1(h) inventory exception. Subsection (h) implies that it does, by conditioning the exception on full compliance with §5204, but (a)(5) does not say so.

ISFA recommendation. State expressly that §5204 continues to apply in full to all work permitted under §5204.1(h) and to all fabrication of materials not prohibited by §5204.1.

B.2 §5204(b)(2) — “Artificial Stone Action Level” of 3.0 µg/m³

“Artificial Stone Action Level” means a concentration of airborne respirable crystalline silica of 3.0 µg/m³, calculated as an 8-hour TWA. This action level applies to high-exposure trigger tasks performed on artificial stone or high exposure trigger tasks performed on a variety of materials that include artificial stone.”

This is the most consequential technical defect in the draft, and ISFA asks the Division to address it directly.

Comment 1 — provenance: this is an ambient environmental value, not an occupational one. 3.0 µg/m³ is the chronic inhalation Reference Exposure Level adopted by the Office of Environmental Health Hazard Assessment for respirable crystalline silica in February 2005. A chronic REL is derived to protect the general population — including children and other sensitive subgroups — against continuous, lifetime, 24-hour-per-day exposure, and it carries the uncertainty factor structure appropriate to that purpose. An occupational 8-hour time-weighted average action level describes a different exposure metric, a different exposed population, a different duration, and a different uncertainty factor structure. Importing the one into Title 8 as the other is not a conservative choice; it is a category error, and it will be identified as one by every industrial hygienist who reads the rule.

Comment 2 — the value is below the analytical floor of the reference method. For quartz by OSHA Method ID-142, the detection limit of the overall procedure is **2.84 µg/sample, equivalent to 3.48 µg/m³** at the method's stated sampling conditions (1.7 L/min for 480 minutes; 816 L), and the reliable quantitation limit is **9.76 µg/sample, equivalent to 12.0 µg/m³**. A proposed action level of 3.0 µg/m³ is therefore **below the detection limit** and at **one quarter of the reliable quantitation limit** of the method the Division uses to enforce §5204. An employer cannot demonstrate compliance. An inspector cannot document a violation to a standard that will survive the Appeals Board. And under the amended §5204(g)(1), failure to achieve this level through wet methods alone is an imminent hazard carrying a mandatory Order Prohibiting Use.

Comment 3 — the value approaches California ambient background. OEHHA's own 2005 document records ambient background respirable crystalline silica in California of 0.2 to 2.3 µg/m³. Published fence-line monitoring at mineral processing facilities reports upper 95% confidence limits of 1.85 to 2.05 µg/m³, with regional background of 0.22 to 0.27 µg/m³. A fabrication shop in the Inland Empire or the San Joaquin Valley drawing outside make-up air on a windy day may approach a 3.0 µg/m³ action level before a single tool is energized. No engineering control can remove silica that arrives in the supply air.

Comment 4 — the second sentence sweeps in unrelated work. The action level applies to trigger tasks “performed on a variety of materials that include artificial stone.” A shop whose work is 95% granite and porcelain, and 5% artificial stone imports a 3.0 µg/m³ level across its mixed-material operations. The draft

does not say how a mixed-material exposure is apportioned, and it cannot be apportioned by any available method.

Comment 5 — the cohorts underlying the value are natural mineral dust populations. **Comment 1** addresses where the 3.0 µg/m³ figure originated. This comment addresses the data from which it was derived. The epidemiological cohorts underlying OEHHA's chronic Reference Exposure Level are natural mineral dust populations — gold miners, tin miners and diatomaceous earth workers. The peer-reviewed characterization work cited in Part I establishes that engineered stone dust differs from natural stone dust in respirable crystalline silica fraction, particle size distribution, specific surface area, surface charge and resin content (Ramkissoon et al., Sci Rep 2022;12:4351, doi:10.1038/s41598-022-08378-8; Respirology 2024, doi:10.1111/resp.14625). ISFA is not aware of artificial-stone-specific toxicity data having been run through comparable dose-response modeling to derive an artificial-stone-specific value independently. The provision is titled the “Artificial Stone Action Level” and applies only to artificial stone. ISFA respectfully asks the Division to place the derivation in the record. If the Division's position is that the engineered stone literature supports a value below what natural mineral dust cohorts would yield, ISFA would find that a reasonable scientific position — and it is the position the scientific advisory committee is well placed to document.

Comment 6 — comparison with adopted occupational limits. For context, the federal Occupational Safety and Health Administration sets a permissible exposure limit of 50 µg/m³ and an action level of 25 µg/m³. NIOSH recommends 50 µg/m³. The Mine Safety and Health Administration examined the question in its 2024 respirable crystalline silica final rule and set a permissible exposure limit of 50 µg/m³ with an action level of 25 µg/m³. The ACGIH threshold limit value, set without regard to feasibility, is 25 µg/m³. Section 5204 itself sets the action level for this same substance at 25 µg/m³ and the permissible exposure limit at 50 µg/m³. ISFA raises the comparison not to suggest that California must follow other jurisdictions — the state's authority to adopt a more protective standard is well established — but because a departure of this magnitude will invite questions that a documented derivation in the record would answer in advance.

Acknowledgment. The observation in Comment 5 was first brought to ISFA's attention by David Galaviz, CSHO, EHS Director of Fireclay Tile, a stone fabrication and installation firm in Richmond, California, in correspondence dated September 23, 2026. ISFA does not claim the point as its own and restates it here with his knowledge. Comment 6 was developed from his observation on benchmarking. ISFA notes the attribution because the Division may find it useful to know that the same question was raised independently by a California employer performing this work.

ISFA recommendation. Strike §5204(b)(2). If an artificial-stone-specific action level is to be established, it must be derived occupationally, through the scientific advisory committee the Board directed on May 21, 2026, and it must be set at or above the reliable quantitation limit of the analytical method by which it will be enforced. ISFA will participate in that committee and will bring its own sampling data.

B.3 §5204(b)(17) — “Wet Methods”

“Wet Methods” means effectively suppressing dust by one of the methods listed below, such that exposures do not exceed the action level or artificial stone action level, as applicable, at any time. Regardless of the method used, water shall cover the entire surface of the work object where a tool, equipment, or machine contacts the work object. Use of water bottles or other water source that is not continuous is not an acceptable wet method.”

Comment — ISFA supports the final sentence. The prohibition on intermittent water sources — spray bottles, garden sprayers, a hose run occasionally across a cut — is correct, is consistent with what our members' own exposure data show, and ISFA urges the Division to retain it in any final text. Intermittent

wetting is one of the most common substandard practices in this industry and it should be named as unacceptable.

Comment — the definition defines a control by an outcome, and then makes the outcome unmeasurable.

A control method should be defined by what it is and does. This definition says a wet method is a wet method only if exposures do not exceed a level that, for artificial stone, cannot be quantified by the reference method. A definition that can be satisfied only by demonstrating an immeasurable result is not a definition an employer can apply or an inspector can enforce.

Comment — “at any time” is incompatible with an 8-hour TWA. Both the action level and the proposed artificial stone action level are expressly defined as 8-hour time-weighted averages. A time-weighted average cannot be evaluated “at any time”; the concept has no instantaneous value. If the Division intends a ceiling limit, it must say so and derive one. As drafted the provision is internally incoherent.

Comment — “water shall cover the entire surface of the work object” is neither achievable nor necessary.

It is not achievable for vertical edge profiling, undermount sink rail polishing, mitered edge build-ups, or hand-tool work on a fabricated piece, where the work object is oriented so that water runs off. It is not necessary because the control objective is suppression at the point of dust generation, which is what integrated through-tool and point-of-generation water delivery accomplishes. As drafted, a shop operating a properly engineered through-tool water feed with local exhaust ventilation is out of compliance because water does not cover the whole slab, while a shop flooding a slab with an inadequate point-of-contact feed is compliant. That is backwards.

ISFA recommendation. Retain the continuous-source requirement. Replace the coverage sentence with a performance requirement for continuous water delivery at the point of tool contact at a specified minimum flow rate, verified at commissioning and annually. Strike the outcome clause and the words “at any time.”

B.4 §5204(f)(2) — Lead-in to engineering and work practice controls

“(2) Engineering and work practice controls for high-exposure trigger tasks. The employer shall use the following engineering controls and work practices for all high-exposure trigger tasks, regardless of employee exposures, exposure assessments, or objective data.”

Comment. ISFA does not object to applying baseline controls to trigger tasks without an exposure trigger; that is a defensible design and it removes an argument small shops have historically used to avoid controls. Our objection is narrow and it is to the consequence of combining this lead-in with subparagraph (A). Because controls apply “regardless of exposure assessments, or objective data,” and because subparagraph (A) then measures those controls against an unquantifiable level, the provision discards objective data in both directions: it will not credit a shop that has measured its exposures and shown them to be controlled, and it will not permit that shop to rely on its own data in an appeal.

ISFA recommendation. Retain the baseline control requirement. Amend subparagraph (A) so that verified objective data from a Qualified Person may be used to demonstrate control effectiveness, as proposed at §5204.2(e)(2)–(3).

B.5 §5204(f)(2)(A) — Engineering controls for high-exposure trigger tasks

“Effective wet methods that reduce exposure levels below the action level shall be used at all times. Wet methods shall reduce all employee exposures below the action level or artificial stone action level, as applicable, without regard to respirator use.”

Comment — the two sentences state two different standards. The first refers to “the action level.” The second refers to “the action level or artificial stone action level, as applicable.” This is the provision whose

violation triggers a mandatory Order Prohibiting Use under the amended §5204(g)(1). Ambiguity in the provision carrying the most severe consequence in the standard should be resolved before adoption, not afterwards.

Comment — the relationship between this provision and the hierarchy of controls. By requiring that wet methods alone reduce exposures below the action level “without regard to respirator use,” the provision measures one element of a control system in isolation. The peer-reviewed record indicates that wet methods alone frequently do not achieve the permissible exposure limit in this work (Soo et al. 2025, doi:10.1093/annweh/wxaf014; Johnson et al. 2017, doi:10.1093/annweh/wxx040), which is why ISFA and the compliant segment of the industry pair them with local exhaust ventilation and enclosure. ISFA asks the Division to consider assessing the control system as a whole, which would credit rather than overlook the investments compliant shops have already made.

Comment — no recognition of the direction the compliant segment has moved. The provision does not mention local exhaust ventilation, enclosure, automation, robotic fabrication or negative-pressure fabrication rooms. These are where the capital in this industry is going. A standard that does not recognize them gives a shop no compliance credit for building them.

ISFA recommendation. Require a documented combination of engineering controls — continuous point-of-generation water delivery and/or local exhaust ventilation, with enclosure where feasible — verified by exposure measurement at commissioning and at least annually by a qualified person, achieving exposures below a measurable action level. Retain respiratory protection as an additional layer, not as a substitute. Strike “without regard to respirator use” as applied to artificial stone until a measurable action level exists.

B.6 §5204(g)(1) and (g)(2) — Imminent hazards

“(g)(1) Failure to comply with any of the following subsection (f)(2)(A), Engineering Controls, shall be considered an imminent hazard and shall be subject to an Order Prohibiting Use ... by the Division: (A) Subsection (f)(2)(A), Engineering Controls; (B) Subsection (f)(2)(D) Prohibitions; or (C) Subsection (h) Respiratory protection; (g)(2) Failure to comply with any of the following shall be considered an imminent hazard and may be subject to an Order Prohibiting Use from the Division: (A) Subsection (f)(2)(D) Prohibitions; (B) Subsection (h) Respiratory protection; (C) Subsection (m) Reporting of silicosis; and (D) Section 5203 ...”

Comment — drafting errors on the face of the text. The lead-in to (g)(1) names subsection (f)(2)(A) and then the list that follows repeats it as item (A). More seriously, subsections (f)(2)(D) and (h) appear in **both** lists: in (g)(1), where an Order Prohibiting Use “**shall**” issue, and in (g)(2), where one “**may**” issue. An employer cannot determine whether a respiratory protection violation carries a mandatory or a discretionary shutdown, and an inspector has no rule for choosing. This will be litigated at the Appeals Board on the first citation.

Comment — classification of a reporting violation. Subsection (g)(2)(C) would treat failure to report a silicosis case under §5204(m) as an imminent hazard. ISFA supports vigorous enforcement of the reporting duty and regards late reporting as serious. We note only that an Order Prohibiting Use is directed at conditions presenting an immediate danger under Labor Code §6325, and ask the Division to consider whether a records violation is best addressed through the citation and penalty provisions instead.

ISFA recommendation. Correct the duplication and the lead-in. Confine mandatory Order Prohibiting Use authority to observable dangerous conditions — dry cutting, absent or disabled engineering controls, absent respiratory protection during a trigger task — and treat records and reporting violations through citation and penalty.

B.7 §5204(h)(3)(A) — Errors in respirator classification and assigned protection factors

“A full face, tight-fitting powered-air purifying respirator (PAPR), a helmet or hood PAPR with an Assigned Protection Factor (APF) of 1000 pursuant to section 5144, or another respirator providing equal or greater protection (APF of 1000 or greater) equipped with a HEPA, N100, R100, or P100 filter shall be used.”

This subsection, and subsection (h)(3)(B), contain four technical errors in respirator classification and assigned protection factors. ISFA raises them first because they are not matters of policy judgment on which reasonable parties differ. They are inconsistent with §5144 Table 1 and with 42 C.F.R. Part 84, and they should be corrected before this text is circulated further, whatever the Division decides on the merits of the prohibition.

Error 1 — a helmet or hood PAPR does not carry an APF of 1,000 on the face of §5144. Section 5144, Table 1, assigns helmet/hood PAPRs an APF of “**25/1,000**” — not 1,000. The accompanying footnote provides that the employer must have evidence from the respirator manufacturer that testing of the specific device demonstrates performance at a level of protection of 1,000 or greater, best demonstrated by a workplace protection factor or simulated workplace protection factor study or equivalent testing, and that **absent such testing the device is treated as a loose-fitting facepiece respirator and receives an APF of 25**. The draft’s phrase “a helmet or hood PAPR with an Assigned Protection Factor (APF) of 1000 pursuant to section 5144” presents 1,000 as the table value for that class. It is not. As drafted, an employer that buys a hood PAPR without the manufacturer’s WPF or SWPF data is using a 25-APF device while believing the regulation told it the device is rated 1,000 — a forty-fold overstatement of protection, in the one provision of this rulemaking whose entire function is to protect the worker who is still exposed.

Error 2 — N100, R100 and P100 filters are not approved for powered air-purifying respirators. Under 42 C.F.R. Part 84, Subpart K, the N-, R- and P-series classifications (N95/N99/N100, R95/R99/R100, P95/P99/P100) apply to **non-powered** air-purifying particulate respirators. Powered air-purifying respirators are approved under separate classes and series: **HE, PAPR100-N and PAPR100-P**. There is no PAPR100-R. Requiring that a PAPR be “equipped with a HEPA, N100, R100, or P100 filter” therefore specifies, for a PAPR, filter classes that NIOSH does not approve for PAPRs, and omits the classes it does. “HEPA” is likewise a filter-media performance description rather than a NIOSH approval class; the Part 84 term for the powered-respirator class is HE.

Error 3 — a full facepiece supplied-air respirator in pressure-demand mode is APF 1,000, not 10,000. Subsection (h)(3)(B) describes “[a] full face, tight-fitting supplied-air respirator in pressure-demand or other positive pressure mode (**APF of 10,000**).” Section 5144, Table 1, assigns a full facepiece supplied-air respirator operated in continuous flow or pressure-demand/other positive pressure mode an APF of **1,000**. The value 10,000 belongs to a **full facepiece self-contained breathing apparatus** operated in pressure-demand or other positive pressure mode. The draft is off by a factor of ten. If the Division intends a device rated 10,000, it must say SCBA, or a combination pressure-demand supplied-air respirator with an auxiliary self-contained air supply — which is a materially different, and materially more burdensome, specification than the text currently reads.

Error 4 — the breathing air quality requirement is missing. Subsection (h)(3)(B) specifies where the air source must be located but says nothing about the quality of the air delivered. Section 5144(i) requires compressed breathing air meeting at least the requirements for Grade D breathing air described in ANSI/CGA G-7.1, together with carbon monoxide limits, sorbent bed and filter maintenance, and alarms on oil-lubricated compressors. Supplied-air respiratory protection has killed workers through contaminated air lines; the location of the intake is the lesser control and the draft names only that one. Relatedly, the

requirement that the air source be in an area “free of respirable crystalline silica and other airborne contaminants” states an absolute that no location on earth satisfies — ambient respirable crystalline silica in California is 0.2 to 2.3 $\mu\text{g}/\text{m}^3$, as Part IV.B.2 discusses. The operative standard should be Grade D breathing air with an intake located to prevent entrainment of contaminated air.

Summary of corrections requested.

Draft text	As drafted	Correct value / class	Authority
§5204(h)(3)(A) — helmet or hood PAPR	APF 1,000	25/1,000; 25 absent manufacturer WPF/SWPF evidence of $\geq 1,000$	8 CCR §5144, Table 1 and footnote
§5204(h)(3)(A) — PAPR filters	HEPA, N100, R100, P100	HE, PAPR100-N or PAPR100-P	42 CFR Part 84, Subpart K
§5204(h)(3)(B) — full facepiece SAR, pressure-demand	APF 10,000	1,000 (10,000 is full facepiece SCBA, pressure-demand)	8 CCR §5144, Table 1
§5204(h)(3)(B) — air source	Location only	Grade D breathing air, §5144(i) / ANSI-CGA G-7.1	8 CCR §5144(i)
§5204(h)(3)(A) — typographical	“APF ofr 1000”	“APF of 1,000”	—
§5204(h)(3)(A) — nomenclature	“powered-air purifying respirator”; “half-face PAPR”	“powered air-purifying respirator”; “half mask PAPR”	8 CCR §5144(b), Table 1

Comment — ISFA notes what the draft gets right. Exception 1's assigned protection factors are correct: a loose-fitting facepiece PAPR is APF 25, a half mask PAPR is APF 50, and a full facepiece non-powered air-purifying respirator is APF 50, each consistent with §5144, Table 1. The APF 10 floor in Exception 2 is likewise consistent with the half mask category, which under footnote 3 to Table 1 includes filtering facepieces and elastomeric half masks. We identify these so the Division can see that ISFA's objection is to four specific defects and not to the subsection as a whole.

ISFA recommendation. Correct all four items as tabulated above. Where the Division intends a specific protection class, specify it by the §5144 Table 1 configuration and the 42 C.F.R. Part 84 approval class, not by a trade description. A safety order that misstates an assigned protection factor does not merely contain an error; it instructs employers to under-protect workers who are relying on it.

B.8 §5204(h)(3)(A) — Mandatory APF 1000 respiratory protection

“A full face, tight-fitting powered-air purifying respirator (PAPR), a helmet or hood PAPR with an Assigned Protection Factor (APF) of 1000 ..., or another respirator providing equal or greater protection (APF ofr 1000 or greater) equipped with a HEPA, N100, R100, or P100 filter shall be used.”

Comment — read this subsection together with B.7 above. The classification and assigned protection factor errors identified at B.7 are not repeated here. The comments below assume they are corrected and address what remains: the decision to mandate the highest available protection class without regard to measured exposure.

Comment — the exceptions that would relieve this requirement are unavailable for artificial stone work.

Exceptions 1 and 2 both require a demonstration that exposures are “continuously maintained below the action level or artificial stone action level, as applicable.” For artificial stone that is the 3.0 $\mu\text{g}/\text{m}^3$ value the reference method cannot quantify. The practical effect is that APF 1000 is not a default subject to exceptions;

it is an unconditional mandate for all artificial stone trigger tasks, including tasks performed inside enclosed, ventilated, wet-method machining centers where measured exposures are a small fraction of the PEL.

Comment — the mandate is not tied to any hazard assessment. Section 5144(d)(1) requires the employer to select a respirator appropriate to the hazard, and the maximum use concentration for a given device is its assigned protection factor multiplied by the exposure limit. At an APF of 1,000 against the §5204 permissible exposure limit of 50 $\mu\text{g}/\text{m}^3$, the maximum use concentration is **50,000 $\mu\text{g}/\text{m}^3$, or 50 mg/m^3** , of respirable crystalline silica as an 8-hour time-weighted average. No exposure of that magnitude appears anywhere in the Division's fabrication inspection record, in the published literature on engineered stone fabrication, or in ISFA members' own sampling data. The draft therefore mandates a protection class specified for a concentration roughly three orders of magnitude above what is actually measured in this industry, and it does so “regardless of employee exposures, exposure assessments, or objective data” by operation of §5204(f)(2). That is not a conservative application of §5144; it is a departure from the selection logic §5144 is built on.

Comment — feasibility and hazard substitution. Hood and helmet PAPRs at this protection class add heat load in uncooled California shops in summer, where §3395 heat illness obligations already apply; restrict peripheral vision around bridge saws, CNC tables and overhead slab handling; and impede verbal communication in a bilingual workforce where it is often the shouted warning that prevents the injury. ISFA is not arguing against high-protection respirators. We are arguing that mandating the highest available class irrespective of measured exposure trades a controlled hazard for several uncontrolled ones, and that the Division should say on the record that it has evaluated that trade.

Comment — no cost analysis. The Division has published no unit-cost estimate for equipping a fabrication workforce with APF 1000 respiratory protection, including filters, batteries, cleaning and decontamination, storage, maintenance and the fit-testing and medical evaluation program around it. For an industry the Division describes as unable to bear a \$250,000 compliance cost, that estimate is material and should be produced.

ISFA recommendation. Scale respiratory protection to measured exposure against a measurable action level, with APF 1000 required where exposures cannot be shown to be controlled and where the task is performed outside an enclosure. Require a written hazard analysis addressing heat stress, vision and communication whenever a hood or helmet PAPR is mandated.

B.9 §5204(h)(3)(A), Exception 1 — “representative air sampling conducted by a qualified person”

Comment — “qualified person” is undefined, and the definition is contested in a parallel proceeding.

Exception 1 conditions relief on semi-annual representative air sampling “conducted by a qualified person,” without defining the term. The competency standard for air monitoring oversight is directly at issue in Petition File No. 612, in which the California Industrial Hygiene Council seeks to make the Certified Industrial Hygienist credential the sole deemed-competent qualification. ISFA has opposed that petition and continues to oppose it.

Comment — a single-credential mandate makes this exception unavailable to the shops that need it. There are approximately 1,342 fabrication operations in California and a finite number of CIHs, concentrated in metropolitan areas and largely engaged by large employers and consultancies. If “qualified person” is construed as CIH-only, the small and mid-sized shops that make up the overwhelming majority of this industry cannot obtain semi-annual sampling at any realistic price, cannot qualify for Exception 1, and are therefore subject to unconditional APF 1000. The rule would price the exception out of reach of precisely the employers whose workers are getting sick.

ISFA recommendation. Define “qualified person” in this rulemaking on a multi-pathway basis: a Certified Industrial Hygienist, a Certified Safety Professional, a Certified Hazardous Materials Manager, or a California-licensed Professional Engineer, in each case with documented competency in respirable dust sampling and the analytical methods referenced by this section. ISFA's position on this is on the record in Petition 612 and is unchanged.

B.10 §5204(h)(3)(A), Exception 2 — the medical-history condition

“2. All employees are fully participating in all components of the medical surveillance program, pursuant to subsection (j); no employee, either currently or previously employed, has been diagnosed with silicosis; and no current employee meets the definition of suspected silicosis.”

Comment — employer access to the information the condition requires. “No employee, either currently or previously employed, has been diagnosed with silicosis” is unbounded in time. An employer generally has no lawful means of obtaining the diagnoses of former employees: §5204(j) and §3204 restrict employer access to medical findings, the Confidentiality of Medical Information Act at Civil Code §56 et seq. restricts the disclosure, and the licensed health care professional's written opinion to the employer under §5204(j) is limited in content. ISFA asks that the condition be narrowed to information the employer may lawfully hold.

Comment — the interaction between this condition and medical surveillance. A shop that conducts no medical surveillance will have no diagnosed cases and will satisfy the condition. A shop that screens every worker annually with spirometry and chest imaging, and therefore detects early disease, will not. ISFA raises this because California's prevention strategy depends on early detection, and because silicosis has been reportable in California since June 2025, with Senate Bill 20 requiring CDPH to report engineered stone cases to Cal/OSHA from January 2026. ISFA is confident the Division does not intend to discourage surveillance and asks that the condition be revised so that detection does not affect eligibility.

Comment — an internal inconsistency in the exposure condition. Condition 1 of Exception 2 requires that exposures be “continuously maintained below the action level,” full stop. The parallel condition in Exception 1 reads “below the action level or artificial stone action level, as applicable.” For artificial stone work the two exceptions therefore state different exposure conditions, and nothing in the draft indicates which governs. If the omission in Exception 2 is deliberate — so that the 25 µg/m³ action level, rather than the 3.0 µg/m³ artificial stone action level, applies to the APF 10 exception — the Division should say so, because it would make Exception 2 the only respirator exception in the draft that is measurable at all. If it is inadvertent, it should be corrected.

ISFA recommendation. Replace the condition. Condition the exception on the employer's **current, documented, verified participation** in a compliant medical surveillance program with a stated minimum participation rate, on timely reporting of every case under §5204(m), and on medical removal of affected workers under §5204(k). Reward the finding, not the absence of the finding. ISFA's National Medical Monitoring Program — spirometry, chest imaging and occupational lung disease physician review, built for this industry — is designed to make that standard attainable for small shops, and we will put it in front of the Division at any time.

B.11 §5204(h)(3)(B) — Supplied-air respirators for diagnosed workers

“A full face, tight-fitting supplied-air respirator in pressure-demand or other positive pressure mode (APF of 10,000) for any employees known to the employer to be diagnosed with confirmed silicosis, or who meet the definition of suspected silicosis ...”

Comment — see B.7 for the assigned protection factor and breathing air errors in this subsection. The APF stated for a full facepiece pressure-demand supplied-air respirator is incorrect, and the breathing air quality requirement of §5144(j) is missing. Those corrections are tabulated at B.7 above. The comment below is directed at the policy the subsection embodies.

Comment — this provision contemplates the continued exposure of a worker who already has the disease. Section 5204(k) provides for medical removal. A worker with confirmed silicosis, or with suspected silicosis, should be removed from respirable crystalline silica exposure — not re-equipped with a higher class of respirator and returned to the same trigger task. Silicosis is progressive and irreversible, and progression is driven by continued exposure. ISFA's position is that the correct response to a confirmed or suspected case is removal with wage and benefit retention under §5204(k), and that this subsection should say so.

Comment — interaction with §5204(k) is unstated. As drafted, the two provisions can be read as alternatives at the employer's election. That ambiguity will be resolved in practice in favor of the cheaper option.

ISFA recommendation. Amend to provide that a confirmed or suspected silicosis case triggers medical removal under §5204(k), and that supplied-air respiratory protection applies only where the licensed health care professional or specialist specifically determines that limited continued work is medically appropriate. ISFA supports strengthening §5204(k), including its wage retention provisions, and will support the Division in doing so.

C. Conforming amendments to §1532.3 — Construction Safety Orders

ISFA regards this as the observation with the greatest bearing on worker protection among those raised in these comments, and asks that it receive the Division's close attention.

C.1 §1532.3(a)(1) — Existing applicability floor (unamended, but material to the amendment)

“(1) This section applies to all occupational exposures to respirable crystalline silica in construction work, except where employee exposure will remain below 25 micrograms per cubic meter of air (25 µg/m³) as an 8-hour time-weighted average under any foreseeable conditions.”

Comment. ISFA notes this provision not to object to it but because the draft's construction amendment depends on it. Onsite work falls outside §1532.3 entirely where exposures remain below 25 µg/m³ under any foreseeable condition. Combined with the new exception at (a)(2), which removes §5204.1 from onsite installation, maintenance and repair, the result is that an installation crew performing dry onsite modification is governed by §1532.3 only, is exempt from the prohibition, and — where the employer asserts foreseeable exposures below 25 µg/m³ without having measured them — may be outside §1532.3 as well. The draft should not leave that combination in place.

C.2 §1532.3(a)(2), the Exception, and the definition of “Installation”

“(a)(2) Section 5204.1 also applies to the onsite fabrication of artificial stone with more than 1.0% crystalline silica. Exception to subsection (a)(2): Section 5204.1 does not apply to onsite installation, maintenance, or repair of artificial stone products.”

“‘Installation’ means fitting, positioning, leveling, securing, and final on-site modification or assembly of artificial stone slabs that were previously fabricated. This is limited to minor on-site adjustments to improve fit.”

Comment — the exception exempts the highest-exposure residual activity in the industry. Onsite modification during installation — enlarging a cooktop or sink cutout, easing a wall scribe, re-cutting a rail, notching for an outlet — is performed in an occupied residence or an active jobsite. There is no local exhaust ventilation. There is no slurry containment. There are no change facilities and no showers, so the dust goes home in the worker's clothing and into the worker's car. The crew is typically two people with a hand grinder and, at best, a shop vacuum. Every determinant of exposure is worse than in a shop. The draft prohibits the controlled setting and expressly exempts the uncontrolled one.

Comment — “final on-site modification” and “minor on-site adjustments” cannot be administered. Neither term is defined or measurable. A 3 mm dry grind along a scribe edge is unquestionably a “minor adjustment to improve fit,” and it can produce short-term exposures far above the permissible exposure limit. The distinction the draft draws is between the purpose of the cut and not the dust it makes. Silica does not know the difference.

Comment — the legacy stock is the long-term exposure problem and the draft does not address it.

California contains millions of installed artificial stone surfaces. Every one of them will eventually be repaired, modified, removed or demolished, and that work will continue for decades after any prohibition takes effect. It will be performed by installers, remodelers, plumbers, demolition crews and homeowners, most of whom are outside any silica program today. Australia — which did prohibit the product — nonetheless built a legacy framework around exactly this work, requiring notification to the regulator before removing, repairing, modifying or disposing of installed engineered stone, and requiring controls for that processing. This draft has no legacy framework of any kind. It is the single largest gap in the proposal.

Comment — practical effect of the installation exception. A slab cut to rough dimension outside California, shipped in and finished on site would fall within the exception as drafted. ISFA raises this because it bears

on whether the prohibition achieves its intended reach, and suggests that defining “final on-site modification” by reference to the operations actually performed at installation would address it.

ISFA recommendation. Strike the exception and replace it with an affirmative legacy and onsite work framework: (1) cutting, grinding, drilling, routing or abrasive polishing of installed covered material permitted only by a licensed facility's trained employees; (2) advance notification to the Division; (3) mandatory continuous wet methods or local exhaust ventilation; (4) respiratory protection under §5144; (5) containment and HEPA cleanup, with a prohibition on dry sweeping and compressed air; and (6) a controlled disposal pathway. This is set out as proposed §5204.2(j) at Part V.

V. ISFA's Alternative — Proposed §5204.2, Fabrication Shop Licensing and Compliance Audit Program

Why licensing reaches shops a prohibition cannot

ISFA's alternative proceeds from the Division's own findings rather than from a different reading of the health evidence. We accept the Division's data in full. We draw a different conclusion from them.

The Division found that 94% of inspected shops were cited, that 20% received an Order Prohibiting Use, that 91% of a 58-inspection subset lacked administrative controls, that 55% had no engineering controls, that 36% used no respirators, and that only 21% of workers had been fit-tested. Those are the shops the Division reached. They are approximately ten percent of the industry. The disease in the surveillance record was produced overwhelmingly in the other ninety percent, and the Division has never been inside them.

The Division also found the economics: roughly **\$250,000** to establish a compliant shop, roughly **\$30,000** to establish a non-compliant one, and an average penalty of **\$14,000**. A prohibition leaves that arithmetic untouched. The \$30,000 operator is already outside the law; making the activity itself unlawful gives that operator a stronger reason to remain unfindable and removes the last thread — material purchasing — that connects it to any visible market.

Licensing inverts the problem. A shop cannot buy a slab without a license. It cannot get a license without an audit. It cannot keep a license without closing its findings. The supplier, not the inspector, becomes the first line of enforcement, and the supplier has a commercial record of every shop in the state. **Market access replaces inspection luck as the enforcement trigger.** That is the only mechanism on this record that acts on the \$30,000 shop.

The framework is also product-agnostic by design. It regulates measured crystalline silica content across all slab and panel materials — engineered, natural, porcelain, sintered and composite. New surfacing materials are entering this market continuously with no product standards behind them. A rule tied to one product name does not address the exposures that arrive next; this one does.

ISFA is not proposing this in the abstract. The association has an accredited-auditor network under development against ISO/IEC 17021-1:2015, ISO/IEC TS 17021-10:2018 and IAF MD22; bilingual silica awareness training delivered weekly in English and Spanish; a national medical monitoring program built around spirometry, chest imaging and occupational lung disease physician review; a compliance audit instrument developed jointly with federal OSHA under Alliance Agreement 25-MOU-066-T; and a registered apprenticeship program in development with the U.S. Department of Labor. The infrastructure this regulation would require substantially exists. What it needs is legal force.

Proposed regulatory text

The following is offered as adoptable regulatory language. ISFA will provide a clean copy in any format the Division prefers and will work with Research and Standards staff on refinement.

§5204.2. Fabrication Shop Licensing and Compliance Audit Program.

(a) Purpose and scope.

- (1) This section establishes a licensing and independent audit framework governing the fabrication of covered material in California. It applies to every employer that performs a high-exposure trigger task, as

defined in section 5204, on covered material in any place of employment, and to every onsite operation described in subsection (j).

(2) This section supplements and does not replace sections 3203, 3204, 3395, 5144, 5204 and 1532.3. Nothing in this section relieves an employer of any obligation under those sections.

(b) Definitions.

(1) “Accredited Auditing Body” means a certification or inspection body accredited by a signatory to the IAF Multilateral Recognition Arrangement against ISO/IEC 17021-1:2015 for occupational health and safety management systems, whose auditors meet the competency criteria of ISO/IEC TS 17021-10:2018, and which satisfies the impartiality requirements of ISO/IEC 17021-1 clause 5.2 and IAF MD22.

(2) “Compliance Audit” means an on-site audit of a fabrication facility conducted by an Accredited Auditing Body against sections 3203, 3204, 3395, 5144, 5204 and this section, resulting in written findings, classified nonconformities, and a corrective action plan with verified closure.

(3) “Covered Material” means any slab, panel or comparable dimension product containing more than 1.0% crystalline silica as determined under subsection (f)(2), without regard to whether the product is natural, engineered, artificial, reconstituted, composite, sintered, fired, porcelain or of any other origin or trade description.

(4) “Legacy Work” means cutting, grinding, drilling, routing, abrasive polishing, chipping, breaking, removal or demolition of covered material that has been previously installed.

(5) “Licensed Fabrication Facility” means a fixed place of employment holding a current, unsuspended license issued under subsection (c).

(6) “Qualified Person” means an individual holding certification as a Certified Industrial Hygienist, a Certified Safety Professional, or a Certified Hazardous Materials Manager, or licensure as a Professional Engineer in the State of California, in each case with documented competency in respirable dust sampling and in the analytical methods referenced by section 5204.

(7) “Supplier” means any person that manufactures, imports, distributes, warehouses or sells covered material for delivery to a place of employment in California.

(c) License required.

(1) Effective [EFFECTIVE DATE PLUS 12 MONTHS], no employer shall perform a high-exposure trigger task on covered material unless that work is performed at a Licensed Fabrication Facility.

(2) The Division shall issue a license to an employer that demonstrates satisfaction of subsections (d) through (i). A license is valid for three years and is subject to annual surveillance under subsection (d)(2).

(3) A license is specific to a fixed place of employment and is not transferable.

(4) The Division shall maintain a public register of Licensed Fabrication Facilities, updated not less than monthly, showing license status, issue date, expiry date, and any current suspension.

(5) A provisional license valid for twelve months and not renewable shall be available to an employer that has contracted with an Accredited Auditing Body for an initial Compliance Audit and has satisfied subsections (e) through (i). A provisional licensee is subject to unannounced Division inspection as a condition of the provisional license.

(d) Independent compliance audit.

(1) Initial audit. Before license issuance, the employer shall undergo an initial Compliance Audit by an Accredited Auditing Body. All nonconformities classified as major shall be closed, with closure verified on site, before a license is issued.

(2) Surveillance and recertification. The employer shall undergo a surveillance Compliance Audit annually and a full recertification Compliance Audit every three years.

(3) The employer shall provide the complete audit report, findings and corrective action records to the Division within fifteen days of receipt, and shall retain them for not less than five years.

(4) An Accredited Auditing Body shall not provide consulting, training design or control system design services to a facility it audits, and shall not audit a facility to which it has provided such services within the preceding two years.

(5) The Division may audit any Accredited Auditing Body operating under this section, may observe any Compliance Audit, and may withdraw recognition of a body that fails to meet the requirements of subsection (b)(1).

(e) Engineering controls and exposure assessment.

(1) The employer shall provide, at each point of respirable dust generation, continuous water delivery at the point of tool contact, local exhaust ventilation, enclosure, or a documented combination of these, sufficient to control employee exposures below the action level established by section 5204.

(2) Control performance shall be verified by a Qualified Person at commissioning, following any change in process, tooling, material or ventilation, and not less than annually thereafter.

(3) Exposure assessment shall be conducted by a Qualified Person using a method whose reliable quantitation limit is at or below the applicable action level. No employer shall be required to demonstrate compliance with an exposure level below the reliable quantitation limit of the method by which it is enforced.

(4) Dry cutting, dry grinding, dry polishing, dry sweeping, and the use of compressed air to clean surfaces or clothing are prohibited without exception.

(f) Supply chain due diligence.

(1) A Supplier shall not sell, deliver or transfer covered material to any person in California for fabrication unless that person holds a current license under subsection (c). The Supplier shall verify license status against the Division's public register at the time of sale and shall retain the verification record for five years.

(2) A Supplier shall furnish with each lot of covered material a written certification of crystalline silica content determined by X-ray diffraction by a laboratory accredited to ISO/IEC 17025 for the method, stating the value as a single figure with its measurement uncertainty rather than as a range, together with a current safety data sheet.

(3) A licensee shall not accept covered material that is not accompanied by the certification required by paragraph (2), and shall retain each certification for five years.

(4) Preparation of a bulk sample for the purpose of determining crystalline silica content is permitted notwithstanding any other provision, when performed by or under the direction of a Qualified Person using wet methods and respiratory protection.

(g) Inventory control.

(1) A licensee shall maintain a slab-level inventory record containing, for each unit of covered material: a unique identifier; the Supplier; the certified crystalline silica content and the certification reference; the date received; the date or dates fabricated; the job or customer to which it was assigned; and the disposition of all remnants and waste.

(2) Remnants retained for future use shall carry forward the identifier and certification of the parent slab.

(3) Waste and slurry shall be tracked to a permitted receiving facility, and the record retained for five years.

(4) Inventory records shall be made available to the Division and to the Accredited Auditing Body on request.

(h) Worker safety education.

(1) Before first assignment to any task involving covered material, and annually thereafter, each employee shall receive silica awareness training delivered in a language the employee understands, with competency verified by the trainer and documented.

(2) Training shall address, at a minimum: the health effects of respirable crystalline silica and the irreversibility and progression of silicosis; the tasks and materials that generate exposure; the operation and limitations of the facility's engineering controls; respirator use, fit and limitations; housekeeping and the prohibitions in subsection (e)(4); take-home contamination, change and laundering practice; the employee's rights under the medical surveillance program; and the employee's right to report hazards without retaliation.

(3) Supervisors and shop managers shall receive additional training in exposure assessment, control verification and the licensee's obligations under this section.

(4) Training records shall be retained for the duration of employment plus five years.

(i) Medical surveillance and medical removal.

(1) A licensee shall provide medical surveillance meeting section 5204(j) to every employee who performs a high-exposure trigger task, at no cost and during working hours, including spirometry and chest imaging interpreted by a qualified reader, with review by a physician competent in occupational lung disease.

(2) Demonstrated participation of not less than 95% of eligible employees in each surveillance cycle is a condition of licensure. Non-participation shall be documented individually with the employee's written declination.

(3) Every case of silicosis and every case of suspected silicosis shall be reported as required by section 5204(m) and by Health and Safety Code reporting requirements applicable to silicosis.

(4) An employee with confirmed or suspected silicosis shall be removed from exposure to respirable crystalline silica under section 5204(k), with wage and benefit retention. Removal, and not escalation of respiratory protection, is the required response.

(5) No license shall be denied, suspended or revoked, and no term of licensure shall be made less favorable, solely because a licensee's medical surveillance program has identified a case. Detection shall not be penalized.

(j) Legacy and onsite work.

(1) No person shall perform Legacy Work except through a Licensed Fabrication Facility, by employees trained under subsection (h) and enrolled in medical surveillance under subsection (i).

(2) The licensee shall notify the Division before commencing Legacy Work, identifying the location, the scope of work, the expected duration and the controls to be used. The Division shall establish a notification method that imposes no more than a de minimis administrative burden.

(3) Legacy Work shall be performed with continuous wet methods or local exhaust ventilation at the point of dust generation, with respiratory protection under section 5144, with containment of dust and slurry, and with HEPA vacuum cleanup. Dry cutting and dry grinding are prohibited.

(4) Onsite modification of previously fabricated material during installation is Legacy Work for the purposes of this subsection, without regard to the extent of the modification.

(k) Enforcement.

(1) Performing a high-exposure trigger task on covered material at a place of employment that does not hold a current license under subsection (c) is a dangerous condition within the meaning of Labor Code section 6325 and shall be subject to an Order Prohibiting Use.

(2) The Division shall suspend a license where the licensee fails to close a major nonconformity within thirty days of the audit report, where the licensee performs a prohibited practice under subsection (e)(4), or where the licensee falsifies a record required by subsection (f) or (g).

(3) The Division shall revoke a license upon a second suspension within twenty-four months, upon falsification of a certification or inventory record, or upon a determination that the licensee knowingly permitted exposure that caused or materially contributed to a case of silicosis.

(4) A Supplier that sells covered material to an unlicensed person is subject to citation and civil penalty under Labor Code section 6427 et seq.

(l) Fees and enforcement capacity.

- (1) The Division shall establish a license fee schedule scaled to facility size and sufficient to fund the administration of this section and dedicated enforcement staffing for the fabrication sector.
- (2) Fee revenue collected under this section shall be used only for administration of this section and for inspection, enforcement and outreach in the fabrication sector.

(m) Material transition incentive.

- (1) A licensee that demonstrates, over the preceding twelve months, that not less than 80% by area of the material it fabricated contained 1.0% or less crystalline silica shall have its surveillance audit interval extended from twelve to twenty-four months and its license fee reduced in accordance with the schedule established under subsection (l).
- (2) This subsection is intended to move the market toward lower-silica materials through the cost of compliance rather than through prohibition.

(n) Phase-in.

- (1) Subsections (h) and (i) take effect [EFFECTIVE DATE PLUS 6 MONTHS].
- (2) Subsections (c), (d), (e), (f), (g) and (j) take effect [EFFECTIVE DATE PLUS 12 MONTHS].
- (3) Subsection (k)(1) takes effect [EFFECTIVE DATE PLUS 15 MONTHS], to allow completion of initial audits.

VI. Requested Action

ISFA respectfully requests that the Division and the Board:

1. Decline to transmit the September 16, 2026 discussion draft to the Board as an emergency regulation.
2. Convene the scientific advisory committee the Board directed on May 21, 2026, and set a date for it before any further regulatory action. The Board's direction was explicit and it has not been carried out.
3. Direct the Division to answer, on the record, the questions the Division itself published for the July 31, 2026 advisory meeting — on definitions, scope, jurisdiction, enforcement capacity, existing inventory, installation and repair work, and displaced workers — before the Board is asked to act on a text that answers them by assertion.
4. Place on the record the Division's estimates of: the number of California fabrication workers affected; the capital stock configured for artificial stone fabrication; the basis for the conclusion that employment displacement is negligible; the expected cross-border displacement of fabrication; and the unit cost of an APF 1000 respiratory protection program.
5. Open rulemaking on proposed §5204.2 as an alternative, material-agnostic framework, and permit ISFA to present its auditor network, training curriculum, medical monitoring program and audit instrument to Research and Standards staff.
6. If the Division proceeds with this approach, ISFA respectfully asks that the following matters be addressed, each of which we believe to be unintended: the relationship between §5204.1(f) and (h); the sampling question in §5204.1(g)(1); the overlap between §5204(g)(1) and (g)(2); the measurability of the 3.0 µg/m³ artificial stone action level; the four respirator classification and assigned protection factor corrections tabulated at Part IV.B.7; the medical-history condition in §5204(h)(3), Exception 2; and the treatment of onsite modification at §1532.3.

VII. Closing

ISFA has been at every meeting in this proceeding. We testified before the Board in Santa Rosa in April. We spoke at the advisory committee in Oakland on July 31. We have filed on Petition 612. We will be at the hearing on this rule, and if California adopts something other than what we propose, we will help our members comply with it.

Our remaining concern is one of reach. The workers described in the surveillance series were exposed during dry, uncontrolled fabrication, much of it in operations the Division has not yet been able to inspect. ISFA's respectful view is that the measure most likely to change conditions in those operations is one that makes access to material conditional on verified compliance. That is what the framework at Part V is designed to do, and we offer it to the Division and the Board in that spirit rather than as an objection to the Division's objective, which we share.

ISFA would welcome a meeting with Research and Standards staff before this draft is transmitted to the Board. We will bring our auditors, our bilingual training curriculum, our medical monitoring program and our audit instrument. The framework is built and available to the State at no cost. We would be grateful for a date.

Respectfully submitted,



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Enclosures: Proposed regulatory text, §5204.2 (Part V above). ISFA is prepared to supply, on request: the ISFA–OSHA Alliance compliance audit instrument developed under Alliance Agreement 25-MOU-066-T; the bilingual silica awareness training curriculum; the National Medical Monitoring Program protocol; and the ISO 45001 auditor network accreditation framework.

Appendix A — Peer-Reviewed Literature Relied Upon

Each entry below is identified by Digital Object Identifier so that the Division and the Board can retrieve and verify it directly.

- 1. Fazio JC, Gandhi SA, Flattery J, et al. Silicosis Among Immigrant Engineered Stone (Quartz) Countertop Fabrication Workers in California. JAMA Internal Medicine. 2023. doi:10.1001/jamainternmed.2023.3295**
- 2. Silicosis among Workers Fabricating Engineered Stone (“Quartz”) Countertops in California, 2019–2026. NEJM Evidence. 2026. doi:10.1056/EVIDpha2600187**
- 3. Leso V, Fontana L, Romano R, Gervetti P, Iavicoli I. Artificial Stone Associated Silicosis: A Systematic Review. International Journal of Environmental Research and Public Health. 2019;16(4):568. doi:10.3390/ijerph16040568**
- 4. Ramkissoon C, Gaskin S, Thredgold L, Hall T, Rowett S, Gun R. Characterization of dust emissions from machined engineered stones to understand the hazard for accelerated silicosis. Scientific Reports. 2022;12:4351. doi:10.1038/s41598-022-08378-8**
- 5. Ramkissoon C, et al. Understanding the pathogenesis of engineered stone-associated silicosis: The effect of particle chemistry on the lung cell response. Respirology. 2024. doi:10.1111/resp.14625**
- 6. Soo J-C, Houlroyd J, Warren H, Philpot BJ, Castillo S. Respirable dust and respirable crystalline silica exposures among workers at stone countertop fabrication shops in Georgia from 2017 through 2023. Annals of Work Exposures and Health. 2025;69(5):473–485. doi:10.1093/annweh/wxaf014**
- 7. Johnson DL, Phillips ML, Qi C, Van AT, Hawley DA. Experimental Evaluation of Respirable Dust and Crystalline Silica Controls During Simulated Performance of Stone Countertop Fabrication Tasks With Powered Hand Tools. Annals of Work Exposures and Health. 2017;61(6):711–723. doi:10.1093/annweh/wxx040**
- 8. From Engineered Stone Slab to Silicosis: A Synthesis of Exposure Science and Medical Evidence. International Journal of Environmental Research and Public Health. 2024;21(6):683. doi:10.3390/ijerph21060683**
- 9. Rapid Assessment of Oxidative Damage Potential: A Comparative Study of Engineered Stone Dusts Using a Deoxyguanosine Assay. International**

Journal of Environmental Research and Public Health. 2022;19(10):6221. doi:10.3390/ijerph19106221

10. Fazio JC, et al. Silica Hazards in Engineered Stone Countertop Production: Worker Experiences and Challenges in Los Angeles. American Journal of Industrial Medicine. 2025. doi:10.1002/ajim.70010

11. A review of silicosis and other silica-related diseases in the engineered stone countertop processing industry. Journal of Occupational Medicine and Toxicology. 2025. doi:10.1186/s12995-025-00455-8

Appendix B — Regulatory, Analytical and Agency Sources

1. Cal/OSHA, “Crystalline Silica Activities Strictly Prohibited,” discussion draft dated September 16, 2026, and Emergency Silica Advisory Committee materials, www.dir.ca.gov/dosh/doshreg/silica-2026/.
2. California Department of Industrial Relations, “Standards Board Advances Efforts to Protect Workers from Silicosis,” May 21, 2026 (Board direction to convene advisory committees, including a scientific advisory committee).
3. Division of Occupational Safety and Health, Evaluation of Petition File No. 609, memorandum dated April 10, 2026 (inspection counts, citation and Order Prohibiting Use rates, control-deficiency subset analysis, \$250,000 / \$30,000 / \$14,000 findings, estimate of 1,342 California fabrication operations).
4. “Silicosis among Workers Fabricating Engineered Stone (‘Quartz’) Countertops in California, 2019–2026,” NEJM Evidence (592 cases, 31 deaths, 65 lung transplants, median age at diagnosis 46, mean age at death 52, 98% Latino).
5. OSHA Method ID-142, Crystalline Silica, Quartz, and Cristobalite (quartz DLOP 2.84 µg/sample = 3.48 µg/m³; RQL 9.76 µg/sample = 12.0 µg/m³; 1.7 L/min × 480 min = 816 L).
6. OEHHA, Chronic Toxicity Summary, Silica (crystalline, respirable), final February 2005 (chronic inhalation REL of 3 µg/m³; California ambient background 0.2–2.3 µg/m³).
7. “Compilation and Evaluation of Ambient Respirable Crystalline Silica Air Quality Data near Sand Quarries and Processing Facilities,” Atmosphere 12(7):903 (regional background 0.22–0.27 µg/m³; highest fence line UCL95 1.85–2.05 µg/m³).
8. “Crystalline silica content of natural, engineered, and synthetic stone products and their relation to silicosis policy development” (XRD Rietveld determinations: engineered stone 0–91 vol.%, traditional 58–91 vol.%; quartzite 80–100 vol.%; granite sensu stricto 16–57 vol.%; porcelain 7–29 vol.%; marble 0–5 vol.%).
9. Safe Work Australia, engineered stone prohibition and legacy work arrangements (notification to the WHS regulator before removing, repairing, modifying or disposing of installed engineered stone; required controls; research, analysis, sampling and identification exclusions).
10. California Department of Public Health, Silicosis Becomes a Reportable Disease in California (silicosis reportable as of June 2025; Senate Bill 20 requiring CDPH reporting of engineered stone cases to Cal/OSHA from January 2026).
11. Title 8 CCR §5144, Respiratory Protection, Table 1 (Assigned Protection Factors) and subsection (i) (breathing air quality); 42 C.F.R. Part 84, Subpart K, Air-Purifying Particulate Respirators (filter series N/R/P for non-powered respirators; classes HE, PAPR100-N and PAPR100-P for powered air-purifying respirators); ANSI/CGA G-7.1, Commodity Specification for Air.
12. Title 8 CCR §§3203, 3204, 3340, 3395, 5144, 5203, 5204, 1532.3; Labor Code §§142.3, 6325, 6427 et seq., 6432; Government Code §§11346.1, 11349, 11349.1; Civil Code §56 et seq.; 29 U.S.C. §667(c)(2); ISO/IEC 17021-1:2015; ISO/IEC TS 17021-10:2018; ISO/IEC 17025; IAF MD22; ANSI Z535.2.

Additional Request for Board Consideration

We would also like the Occupational Safety and Health Standards Board to consider the following draft regulatory text presented by ISFA, which we have posted on countertoplicensing.org.

Source: ISFA petition submitted September 28, 2026, Section IV, proposed Section 5204.2 and Appendices A and B to that section (petition pages 4–15). <https://countertoplicensing.org/public-comments/full-petition/>

Section 5204.2. Occupational Exposures in the Fabrication of Countertop and Surface Materials; Fabrication Shop Licensing and Verified Compliance Pathway.

(a) Purpose; relationship to other sections. This section is new. It does not amend Section 5204.

(1) This section establishes a license to fabricate covered material in California and a verified compliance pathway by which a licensed employer demonstrates, through independent third-party audit, that it meets the requirements of this division.

(2) This section supplements, and does not amend, replace, narrow or weaken, Sections 3203, 3204, 3395, 5144, 5204 and 1532.3, or any obligation under federal, state or local law, including 29 CFR 1910.1053 and 29 CFR 1926.1153. Where covered material contains respirable crystalline silica, Section 5204 continues to apply in full, regardless of material category, to every employer, whether or not that employer is licensed under this section.

(3) Nothing in this section relieves an employer of any duty imposed by Chapter 2.2 (commencing with Section 6359.1) of Part 1 of Division 5 of the Labor Code, or by any successor provision.

(4) Where any statute, regulation or consensus standard referenced in this section is amended, renumbered, superseded or replaced, the reference is to that provision or standard as amended, renumbered, superseded or replaced, and the requirements of this section apply to it without further action by the Board.

(b) Definitions. For purposes of this section:

(1) “Covered material” means any slab, panel or comparable dimension product fabricated into a countertop, backsplash, wall, floor, waterfall edge or similar surface product, without regard to crystalline silica content. The material categories within this definition are those identified in paragraph (8) of this subsection and listed in Appendix A to this section, together with any material later introduced for the same use.

(2) “Engineered stone” and “natural stone” have the meanings given in the terminology standards identified for those materials in Appendix A to this section, in the edition in effect at the time of fabrication.

(3) Construction of defined terms. A term defined in this subsection has that meaning wherever it appears in this section, and every requirement of this section shall be read as though the definition were set out in full at that place. Where a defined term appears in more than one subsection, the repetition is for clarity and does not create a separate, narrower or additional requirement. Where a provision of this section can be read consistently with a definition in this subsection, it shall be so read.

(4) “Fabrication shop” has the meaning given in Labor Code Section 6359.1(f) and, in addition, includes any place of employment where covered material that contains no crystalline silica is fabricated.

(5) “Licensed fabrication shop” means a fabrication shop holding a current license issued by the State of California under subsection (c).

(6) “Qualified person” means an individual holding certification as a Certified Industrial Hygienist, a Certified Safety Professional or a Certified Hazardous Materials Manager, or licensure as a Professional Engineer in this state, in each case with documented competency in respirable dust sampling and in the analytical methods referenced by Section 5204.

(7) Where an ISO standard or an American National Standard applicable to covered material or to its fabrication is published after the effective date of this section, that standard becomes a constituent part of the compliance audit required by subsection (f) on a date set by the Division allowing a reasonable period for implementation, and without further action by the Board.

(8) “Countertop and surface fabrication business” means a business that provides manufacturing services for any material used in countertops, including but not limited to natural stone (granite, marble, quartzite, soapstone, slate, limestone and travertine); engineered stone (quartz, terrazzo, solid surface and recycled glass composites); sintered stone; cultured marble; mineral surfaces; porcelain slabs; wood (butcher block and bamboo); metal (stainless steel, copper and zinc); concrete; laminate; recycled and sustainable materials; and emerging materials used in countertop and surface manufacturing. Countertops are horizontal work or decorative surfaces installed in residential, commercial, industrial or specialty environments, including kitchens, bathrooms, offices, retail, hospitality, schools, restaurants, laboratories and custom applications.

(9) “Competent person” means an individual who is capable of identifying existing and foreseeable respirable crystalline silica and other dust hazards in the workplace and who has authorization to take prompt corrective measures to eliminate or minimize them, as that term is defined in 29 CFR 1926.1153(b) and in Section 1532.3(b).

(10) Covered material, and the fabrication of covered material, shall meet the applicable recognized consensus standards in effect at the time of fabrication, including standards published by ASTM International, the American National Standards Institute (ANSI) and its accredited standards developers, the International Organization for Standardization (ISO) and NSF International. Appendix A to this section lists the standards generally applicable to each material category and is informational; the operative requirement is the applicable recognized consensus standard in effect at the time of fabrication.

(11) For any covered material not listed in Appendix A to this section, including emerging, hybrid, recycled or newly developed materials, and for any covered material for which no recognized consensus standard exists, the employer shall rely on the manufacturer’s published technical specifications, safety data sheet and fabrication instructions, and shall obtain documentation of the material’s composition, including its crystalline silica content by weight. When a recognized consensus standard for that material is later adopted, it applies from its effective date.

(c) License required.

(1) Effective [DATE], no employer shall fabricate covered material at a place of employment in California unless that place of employment is a licensed fabrication shop.

(2) A license is specific to a fixed place of employment and is not transferable.

(3) The Division shall maintain a public register of licensed fabrication shops, updated not less than monthly, showing license status, issue date, expiry date and any current suspension.

(d) Eligibility for a license. An employer may fabricate covered material only while the employer:

(A) Holds a valid fabrication shop certification issued under Labor Code Section 6359.1 et seq. when the certification program is available, or has a pending application in good standing;

(B) Has received a passing result on an independent compliance audit of each establishment conducted within the previous [12] months by a Recognized Audit Provider under subsection (h);

(C) Maintains workers’ compensation coverage as required by Labor Code Section 3700, without regard to the number of persons it employs and regardless of whether a person performing or supporting fabrication is classified as an employee, an independent contractor, a subcontractor, a day laborer, a family member or an owner;

(D) Has ensured that every employee who performs or supervises fabrication of covered material has completed the training required by Section 5204 and by Labor Code Section 6359.1 et seq.;

(E) Is not subject to an unabated Order Prohibiting Use or an unabated serious violation of this division; and

(F) Operates lawfully within the meaning of subsection (e).

(e) Lawful operation of a fabrication shop.

(1) A fabrication shop shall not be declared to operate without employees unless the owner demonstrates to the Recognized Audit Provider that every task associated with receipt, handling, cutting, finishing, loading and installation of covered material at that shop is performed by the owner alone.

(2) The Recognized Audit Provider shall record the number of persons observed performing or supporting fabrication, the equipment present and the shop's production capacity, and shall report to the Division any shop whose declared employment is inconsistent with its observed operations.

(3) A shop reported under paragraph (2) is ineligible for a license until the inconsistency is resolved to the satisfaction of the Division.

(f) Minimum conditions verified by the audit. The audit shall verify, at a minimum, that the employer:

(A) Uses no dry methods for any high-exposure trigger task and uses effective wet methods as required by Labor Code Section 6359.1.5 and defined in Labor Code Section 6359.1(i), together with the engineering controls and work practices required by Section 5204(f)(2). Local exhaust ventilation or enclosure shall be provided in addition to, and not in substitution for, effective wet methods where wet methods alone do not keep exposures below the PEL;

(B) Has a written exposure control plan and an effective Injury and Illness Prevention Program under Section 3203;

(C) Conducts exposure air monitoring, performed by or under the direction of a qualified person, for each high-exposure trigger task at least every [6] months and whenever processes, materials or controls change;

(D) Provides respiratory protection under Section 5204(h)(3) and Section 5144;

(E) Provides medical surveillance meeting subsection (g);

(F) Maintains a current safety data sheet and crystalline silica content for every material processed;

(G) Has corrected all prior audit findings within the time required by subsection (i);

(H) Designates not less than two competent persons at each establishment, present during fabrication, each authorized to take prompt corrective measures. Their duties shall include frequent and regular inspections of the workplace, materials and equipment, verification of housekeeping, and prompt remediation of any accumulation, release or visible emission of dust. This requirement follows the competent person requirement of 29 CFR 1926.1153(b) and (g)(4), and its California analogue at Section 1532.3(b) and (g)(4), and extends it to the fabrication shop; and

(I) Maintains housekeeping meeting Section 5204(i), permitting no dry sweeping, dry brushing or use of compressed air where those practices could contribute to employee exposure, and documents the competent person's housekeeping verification for each shift.

The audit instrument shall address, at a minimum, the subject matter listed in Appendix B to this section. A Recognized Audit Provider may use any instrument that covers that subject matter. Appendix B is informational as to form; the obligations it reflects arise under this division and under the Labor Code.

(g) Medical surveillance.

(1) A licensee shall provide medical surveillance at no cost to the employee and during working hours to every employee who fabricates covered material.

(2) Where covered material contains respirable crystalline silica, medical surveillance shall meet Section 5204(j) in full.

(3) For all covered material, medical surveillance shall include a baseline evaluation and periodic evaluation at intervals not exceeding [three] years, by or under the direction of a physician competent in occupational lung disease, including spirometry and chest imaging interpreted by a qualified reader.

(4) Demonstrated participation of not less than [95] percent of eligible employees in each surveillance cycle is a condition of licensure. Non-participation shall be documented individually with the employee's written declination.

(5) Every case of silicosis and every case of suspected silicosis shall be reported as required by Section 5204(m) and Labor Code Section 6359.4.

(6) An employee with confirmed or suspected silicosis shall be removed from exposure under Section 5204(k), with wage and benefit retention.

(7) No license shall be denied, suspended or revoked, and no term of licensure made less favorable, solely because a licensee's medical surveillance program has identified a case.

(h) Recognized Audit Providers. The Division shall publish criteria for, and a list of, Recognized Audit Providers. At a minimum, a Recognized Audit Provider shall:

(A) Use auditors who hold an ISO 45001 Lead Auditor credential and have completed training on this section approved by the Division;

(B) Have no ownership, employment or consulting relationship with the audited employer within the previous three years;

(C) Be organizationally separate from any trade association's membership and advocacy functions, offer audits to all employers on identical terms, separate audit evaluation from the pass/fail decision, and provide an appeal process;

(D) Report to the Division within [5] working days any failing result, any imminent hazard observed, and any employer that declines an audit after enrollment; and

(E) Report to the Division any shop operating without a license, any inconsistency identified under subsection (e)(2), and any unlawful business practice observed in the course of an audit.

(i) Corrective action and loss of eligibility. An employer that does not receive a passing result shall stop fabricating covered material until the Recognized Audit Provider verifies correction. Findings that are not critical shall be corrected within [30] days. An employer loses eligibility immediately upon an Order Prohibiting Use or a failing audit result.

(j) Reporting and records. The employer shall submit exposure air monitoring results to the Division [semiannually] in a format the Division prescribes, post its current audit attestation at each establishment, and make audit reports available to the Division on request. Reporting under this subsection is in addition to, and does not satisfy, the annual training attestation required by Labor Code Section 6359.2(a)(2)(A). The public register required by subsection (c)(3) shall show whether each licensee meets subsection (d).

(k) Renewal of eligibility.

(A) A license issued by the State of California as a condition of eligibility under subsection (d) is valid for [three] years from the date of issue.

(B) The licensee shall submit a renewal request to the State not less than [90] days before the license expires. A renewal request triggers a new independent third-party compliance audit and attestation under subsections (f) and (h).

(C) The license term does not alter the requirement of subsection (d)(B) that the employer hold a passing audit result obtained within the previous [12] months.

(D) A license that expires without renewal ends eligibility under subsection (d). The employer shall stop fabricating covered material until the State issues a renewed license, and shall notify the Division within [5] working days.

(I) Future restrictions on covered material. If this division, or any statute, later prohibits or restricts the fabrication of a particular covered material, this section continues to apply to every covered material that is not prohibited, and a licensee may continue to fabricate non-prohibited covered material under this section. A prohibition on one covered material does not suspend, narrow or terminate this section.

(m) Review. The Division shall report to the Board within [24] months after the effective date of this section on exposure results, audit outcomes, enforcement actions and silicosis case reports for employers under this section, with recommendations.

NOTE: Authority cited: Sections 142.3 and 144.6, Labor Code. Reference: Sections 142.3, 144.6, 3700, 6400, 6401, 6401.7 and 6359.1 et seq., Labor Code.

Appendix A to Section 5204.2 — Standards Generally Applicable by Material Category

This appendix is informational. It lists the recognized consensus standards generally applicable to each category of covered material. The operative requirement is subsection (b)(10): the applicable recognized consensus standard in effect at the time of fabrication. The reference list was developed by the American Countertop Manufacturers Council (ACMC), a standing body of the International Surface Fabricators Association. The definitions used are part of ACMC's policies and procedures. Where no recognized consensus standard exists for a material, subsection (b)(11) applies.

Material	Referenced standards
Natural stone (granite, marble, quartzite, soapstone, slate, limestone, travertine)	ASTM C119 (terminology); ASTM C615 (granite), C503 (marble), C616 (quartz-based stone, including quartzite), C629 (slate), C568 (limestone), C1527 (travertine); ANSI/NSC 373 (sustainable production). Soapstone: manufacturer and supplier specifications.
Engineered stone (quartz and recycled glass composites)	ISO 19947; EN 14617 and EN 15388 where applicable
Terrazzo	National Terrazzo & Mosaic Association guidelines; manufacturer specifications
Solid surface and mineral surfaces	ANSI/ICPA SS-1; ISO 19712
Cultured marble	ANSI Z124.3 and Z124.6, as harmonized with CSA B45.5/IAPMO
Porcelain slabs	ANSI A137.3; ISO 13006 and ISO 10545 test methods
Sintered stone	ANSI A137.3 or ISO 13006, as applicable; manufacturer specifications
Wood (butcher block, bamboo)	Architectural Woodwork Standards (AWI/AWMAC/WI); TSCA Title VI formaldehyde emission requirements for composite and laminated products
Metal (stainless steel, copper, zinc)	ASTM A240 (stainless steel), ASTM B152 (copper), ASTM B69 (zinc)
Concrete	ASTM C150 (cement) and ASTM C33 (aggregates) for constituent materials; manufacturer specifications
Laminate	NEMA LD 3; ISO 4586
Recycled and sustainable materials	Standard for the base material category; otherwise manufacturer specifications
All materials, where applicable	NSF/ANSI 51 (food-zone materials); ASTM E84 (surface burning characteristics); UL 2818 (chemical emissions)

Appendix B to Section 5204.2 — Subject Matter of the Fabrication Shop Compliance Audit

This appendix states the subject matter a compliance audit under subsection (f) shall address. It is informational as to form; every obligation it reflects arises under this division or under the Labor Code, and nothing in this appendix creates a requirement that those authorities do not already impose. The items were developed by ISFA as a fabrication shop audit and inspection instrument and have been in use in the field. They were produced under an Alliance with the federal Occupational Safety and Health Administration through its Chicago and Philadelphia Regional Offices and do not necessarily reflect the official views of that agency or of the United States Department of Labor. ISFA offers them to the Board and the Division as a working instrument, restated against California authority, and not as any form of federal endorsement of this petition. A Recognized Audit Provider may use a different instrument that covers this subject matter.

B.1 Respirable crystalline silica

- (1) Wet methods and other engineering controls are used for cutting, grinding, polishing and drilling wherever feasible to minimize airborne respirable crystalline silica.
- (2) Local exhaust ventilation or equivalent dust controls are installed, maintained and operating effectively at dust-generating equipment.
- (3) Dry methods are not used for any high-exposure trigger task, as required by Labor Code Section 6359.1.5.
- (4) Preventive maintenance systems cover dust collection systems, water delivery systems, filtration equipment and ventilation systems, and these are routinely inspected and serviced.
- (5) Housekeeping uses wet methods or filtered vacuuming meeting Section 5204(i); dry sweeping, dry brushing and compressed air are not used to clean silica-containing dust from clothing, surfaces, equipment or floors.
- (6) Recent exposure monitoring or objective data is available, is representative of current equipment, materials, processes and production methods, and supports the shop's control decisions.
- (7) A written exposure control plan identifies tasks, controls, housekeeping methods and restricted access where needed.
- (8) Employees understand the health effects of respirable crystalline silica, including the symptoms of silicosis, recognize work practices that increase exposure, and understand the controls in place.
- (9) Medical surveillance is provided as required by Section 5204(j) and by subsection (g) of this section.

B.2 Respiratory protection

- (1) A written respiratory protection program meeting Section 5144 is current and implemented.
- (2) Employees are clean shaven where tight-fitting air-purifying respirators require an effective face seal.
- (3) Workers required to wear respirators have medical evaluations, fit tests and documented training.
- (4) Respirators are appropriate for the hazard and are stored, cleaned and maintained correctly.
- (5) Voluntary and mandatory respirator use are clearly distinguished and documented.

B.3 Machine guarding

- (1) Saws, routers, polishers, conveyors and other machines have guards that protect employees from point-of-operation hazards, rotating parts, nip points and flying fragments.
- (2) Guards are inspected routinely for damage, proper adjustment and functionality.
- (3) Guards are in place and are not bypassed, removed or defeated during production.

(4) Emergency stops and control functions are accessible and functional where required.

(5) Blade changes, maintenance and jam-clearing tasks are addressed through safe shutdown procedures.

B.4 Control of hazardous energy

(1) Energy control procedures exist for servicing and maintenance on saws, polishers, dust collectors, compressors and similar equipment.

(2) Authorized employees are trained, and affected employees understand the purpose and use of lockout and tagout controls.

(3) Locks, tags and zero-energy verification are applied consistently before servicing or maintenance begins.

B.5 Slab storage and material handling

(1) Slabs are stored on racks designed for the load and maintained in sound condition.

(2) Slab storage racks are inspected regularly for damage, corrosion or structural deficiencies.

(3) Employees are trained in safe slab movement, communication and spotter responsibilities.

(4) Employees are kept out of pinch points and fall-shadow zones when moving or staging slabs.

(5) A-frames, carts, clamps, lifters and rigging devices are inspected and used within rated capacity.

(6) Traffic routes and staging areas are organized to reduce crushed-by and struck-by hazards.

B.6 Forklifts, cranes and lifting equipment

(1) Forklift operators are trained, evaluated and authorized.

(2) Daily or pre-use inspections are completed for forklifts and defects are corrected promptly.

(3) Capacity plates, warning labels and manufacturer markings are present and legible on forklifts and lifting equipment.

(4) Overhead cranes, hoists and attachments are used within their rated loads and are inspected as required.

(5) Appropriate head protection is provided and worn where employees are exposed to falling- object hazards in accordance with the facility hazard assessment.

(6) Slab-handling attachments are appropriate for the load and compatible with the equipment being used.

(7) Lifting devices such as vacuum lifters, clamps, slings and below-the-hook attachments are inspected before use and removed from service when damaged.

B.7 Hazard communication

(1) A written hazard communication program meeting Section 5194 is available and current.

(2) Safety data sheets are accessible for adhesives, epoxies, sealers, cleaners, fuels and maintenance chemicals.

(3) Secondary containers are labeled properly.

(4) Chemical containers are closed when not in use.

(5) Employees are trained in chemical hazards, label elements and protective measures.

B.8 Personal protective equipment and hygiene

- (1) Personal protective equipment is selected based on documented hazard assessments.
- (2) Eye and face protection is available and used for cutting, grinding and flying-particle hazards.
- (3) Hearing protection is provided where noise exposure warrants it, and a hearing conservation program is in place where required.
- (4) Gloves, foot protection and task-appropriate clothing are provided for sharp edges, heavy material and wet processes.
- (5) Handwashing and cleanup practices are managed to minimize the migration of silica- containing dust into clean areas, break areas and vehicles.

B.9 Electrical safety in a wet fabrication environment — equipment and installation

- (1) Electrical equipment and conductors that may be exposed to moisture are identified and approved for use in damp or wet locations.
- (2) Ground-fault circuit interrupter protection is provided where required by the Electrical Safety Orders, including receptacles in wet or damp shop areas; portable protection is used where permanent protection is not installed.
- (3) Equipment listed for wet or damp locations is used where water is present, such as weatherproof enclosures, sealed switches and corrosion-resistant fittings.
- (4) Cords, plugs and connections are kept off wet floors and away from standing water, sinks and wash-down zones, using drip loops, cord covers or elevated racks.
- (5) Extension cords, receptacles and equipment wiring are in serviceable condition and are not used in place of permanent wiring.
- (6) Damaged cords and cracked or broken plugs are removed from service and discarded rather than repaired with tape.
- (7) Electrical boxes, panels and enclosures have covers in place, with no open boxes or missing covers.
- (8) Equipment grounding is intact, and ground pins are not removed, bypassed or defeated.
- (9) Panels and disconnects are accessible and legibly labeled, and the required working clearance in front of them is kept free of stored material.

B.10 Electrical safety — work practices, training and protective equipment

- (1) Equipment that has been submerged or significantly wetted is inspected by a qualified electrician before being re-energized, and is replaced when its condition cannot be verified.
- (2) Cords, plugs, ground-fault protection and equipment are visually checked before use in wet locations, and defective items are removed from service immediately.
- (3) Employees do not handle plugs, switches or breakers with wet hands or while standing on a wet floor.
- (4) Qualified employees use the one-hand rule when resetting breakers or working near energized parts in damp conditions, and stand on a dry, insulated surface.
- (5) Signage is posted where it applies, such as directions not to operate electrical equipment while standing in water and to have wet equipment inspected before use.
- (6) Wet-location electrical safety is included in new-hire orientation and periodic refresher training, using examples from the shop's own layout such as sinks and wash stations.

- (7) Insulated tools are used for work on or near energized parts.
- (8) Rubber-insulated gloves appropriate to the task and voltage are available and used.
- (9) Rubber mats or other insulating floor protection are provided where electrical work is performed in damp areas.

B.11 General shop safety

- (1) Walking and working surfaces are kept clear of slurry, scrap, cords and trip hazards.
- (2) Exit routes, emergency lighting and fire extinguishers are available and unobstructed.

B.12 Records, training and accountability

- (1) Injury and illness records required by Sections 14300 et seq. are completed and posted when required.
- (2) Near misses, incidents and corrective and preventive actions are documented and reviewed for continuous improvement.
- (3) Training records are available for silica, respirators, hazard communication, powered industrial trucks, control of hazardous energy, personal protective equipment and emergency procedures.
- (4) Supervisors can explain how the shop enforces safety rules in daily operations.
- (5) An effective Injury and Illness Prevention Program meeting Section 3203 is established, implemented and maintained.