

From: [Measure Surfaces](#)
To: [DIR RS](#)
Subject: Comment - Prohibition of Fabrication and Manufacture of Artificial Stone
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Dear Cal/OSHA Team:

I respectfully request that Cal/OSHA not move forward with proposed Section 5204.1 in its current form. Before adopting a categorical prohibition on manufacturing and fabricating artificial stone containing more than 1.0% crystalline silica, the Division should evaluate a more targeted approach that combines independently verified exposure controls, aggressive enforcement, and clear accountability.

Silicosis is a devastating disease, and protecting workers must remain the central objective. Employers who expose workers to dangerous conditions should face prompt enforcement, including suspension of unsafe operations. The question is whether this particular proposal provides the most effective and workable protection, and whether its breadth and consequences have been adequately justified.

The September 16 discussion draft raises the following concerns.

1. A categorical prohibition needs a clearer comparison with enforceable alternatives.

The proposed prohibition applies regardless of a facility's engineering controls, independently measured exposures, or demonstrated compliance. It therefore treats an uncontrolled operation and an operation with rigorously verified controls identically for purposes of the ban.

California's existing Section 5204 already requires wet methods, exposure monitoring, respiratory protection, medical surveillance, and other safeguards for covered operations. It also provides for Orders Prohibiting Use when required engineering controls are not followed.

Before eliminating a category of manufacturing and fabrication, the Division should explain why a strengthened, independently audited compliance pathway would be inadequate. That assessment should distinguish failures to implement required controls from evidence that properly implemented controls cannot provide sufficient protection. Neither industry assurances nor isolated favorable air samples should substitute for that evaluation.

2. The 1.0% cutoff requires a transparent technical justification.

The draft treats every artificial-stone product above 1.0% crystalline silica as prohibited, without distinguishing among substantially different silica contents, formulations, or processing conditions.

Bulk silica content is relevant, but it does not by itself describe the airborne exposure generated by a particular task. The Division should publish the evidence supporting this precise cutoff and explain how material composition, dust generation, particle characteristics, and control effectiveness were evaluated.

This request does not assume that lower-silica products are safe. It asks the Division to explain why products just above 1.0% warrant the same categorical treatment as products with substantially higher silica content, and whether a carefully validated pathway could encourage meaningful risk reduction.

3. The installation exception could shift processing into less controlled locations.

The proposed amendment to Section 1532.3 excludes onsite installation, maintenance, and repair from Section 5204.1. Its definition of installation includes final onsite modification and minor adjustments.

That creates a potential incentive to move processing from fabrication facilities into customer premises or construction sites. Depending on the work involved, those locations may offer less effective containment, ventilation, supervision, and exposure monitoring.

The Division should assess this displacement risk and define precisely which modifications qualify as minor adjustments. A rule intended to protect workers should not inadvertently encourage the same dust-generating activity to occur in a setting where exposure is harder to control.

4. The required warnings contradict the proposal's actual threshold.

The operative prohibition applies to artificial stone containing more than 1.0% crystalline silica. However, the employee-notification and entrance-sign provisions broadly state that artificial stone containing crystalline silica is prohibited, without preserving that threshold.

As written, an employer processing an otherwise permitted product containing 1.0% or less crystalline silica could be required to display language suggesting that the material is prohibited.

This is a substantive clarity problem. Mandatory notices should accurately describe the regulated activity, applicable threshold, and exceptions. Inconsistent language invites confusion among employees, employers, customers, and inspectors.

5. The documentation requirement needs an objective, workable verification process.

The proposal treats undocumented material as artificial stone containing more than 1.0% crystalline silica. That presumption could affect older inventory and natural-stone products whose original documentation is incomplete or unavailable.

The draft should identify acceptable laboratory methods, sampling procedures, supplier certifications, and treatment of measurement uncertainty near the threshold. Employers should have a defined process for isolating unverified material and obtaining reliable testing before processing it.

Worker protection does not require permission to process unknown material while verification is pending. It does require a practical way to establish what the material actually is and resolve disputed classifications.

6. The transition periods require a documented feasibility assessment.

The draft generally introduces the prohibition 60 days after the emergency regulation's effective date, with a limited exception allowing certain previously purchased, contracted-for, or possessed material to be processed until day 180, subject to full compliance with Section 5204.

Those deadlines should be supported by an assessment of replacement-material availability, independent testing capacity, equipment changes, worker retraining, existing contractual obligations, and inventory disposition.

Potential consequences include stranded inventory, interrupted projects, and job losses. These impacts should be assessed rather than assumed away. Any transition should also address continued access to worker medical surveillance and the safe handling of material that can no longer be processed.

7. Evaluate total worker risk, including substitution and displaced production.

The proposal excludes fired ceramic and porcelain tiles and panels from its definition of artificial stone. It also does not establish a general prohibition on natural stone.

The Division should evaluate the exposure risks of likely substitutes and whether the proposal would shift fabrication outside California while leaving onsite modification within the state. These are potential consequences requiring evidence, not predictions that should be accepted without analysis.

The relevant comparison is the overall reduction in worker harm achievable under each alternative, including risks during fabrication, installation, repair, and cleanup.

For these reasons, I request that Cal/OSHA withdraw the current prohibition proposal and develop a revised approach through a transparent stakeholder and technical review. That review should include workers, occupational-health specialists with links to parties involved in active lawsuits, fabricators, and material suppliers. Some of the health practitioners who attended the previous meeting appeared highly dubious. Their credentials and identity must be properly verified.

A credible alternative should evaluate:

- Independently audited authorization for facilities that demonstrate sustained exposure control under representative operating conditions.
- Strong engineering controls, respiratory protection, medical surveillance, and accessible worker training.
- Unannounced inspections and prompt suspension of operations that fail required safeguards.
- Reliable material testing, traceability, and supplier documentation.
- Public reporting of program performance and defined criteria for stronger restrictions if the approach proves

inadequate.

Such a pathway must be supported by evidence and meaningful enforcement. It should not depend on employer self-certification alone.

Please do not advance the current draft without first publishing the technical basis for its threshold, comparing feasible alternatives, resolving its internal inconsistencies, and assessing its foreseeable effects. California should adopt a standard that demonstrably protects workers and provides clear, enforceable obligations.

Thank you for considering these comments.

Sincerely,

Dave Rogers

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