

INQUIRY INTO 2018 REVIEW OF THE DUST DISEASES SCHEME

Organisation: Unions NSW
Date Received: 14 November 2018



**Submission to the NSW Parliament
Legislative Council Standing
Committee on Law and Justice:
2018 Review of the Dust Diseases
Scheme.**

14 November, 2018

Submission by:
Unions NSW
Trades Hall Building
Level 3, 4 Goulburn Street
Sydney NSW 2000
T:

Contact: Natasha Flores

Introduction

Unions NSW welcomes the opportunity to make a submission to the NSW Parliament Legislative Council Standing Committee on Law and Justice, for the 2018 Review of the Dust Diseases Scheme.

Unions NSW supports the submissions of our affiliate unions.

Unions NSW is the peak body for NSW Unions. Unions NSW represents approximately 60 affiliated unions comprising over 600 000 members. These unions represent a diverse range of workers from both blue and white- collar industries.

This submission will focus on Recommendation 1 of the First review of the Dust Diseases scheme by the Standing Committee on Law and Justice published in August 2017.

That the relevant Minister urgently convene a taskforce of industry, regulatory and workforce representatives to review safety standards in the manufactured stone industry and consider regulatory changes necessary to protect workers in the industry.

Unions NSW is deeply concerned by the re-emergence of diseases such as silicosis. We support the above recommendation and believe that this emerging health crisis requires urgent and immediate action to ensure workers do not continue to die from

this entirely preventable disease. We are alarmed that 22 new cases of silicosis were lodged in Queensland this year in a three-week period before 18 September 2018.¹

Our participation on the SafeWork NSW Manufactured Stone Industry Taskforce has enabled us to hold frank discussions with leading respiratory physicians in this field and from these discussions there is no reasons to believe the crises may be any less acute in NSW.

While we welcome this initiative by SafeWork NSW and value our participation in this forum, we do believe immediate action is required prior to the implementation of the taskforce recommendations.

Background

Crystalline silica is one of the most abundant minerals in the earth's crust. Silica is found in sand, granite, sandstone, flint, slate as well as in some kinds of coal and metal. It is a major constituent of many construction materials such as bricks, tiles and concrete.

Silica dust is generated by workplace processes such as crushing, cutting, drilling, grinding, sawing or polishing natural stone or man-made products containing silica. Small dust particles not visible to

¹ <https://www.abc.net.au/news/2018-09-18/silicosis-warning-kitchen-bench-trade-workers/10262958>

the eye are commonly referred to as respirable particles or respirable crystalline silica (RCS).

These respirable particles are small enough to penetrate deep in the lungs and can cause irreversible lung damage.

The following diseases can be caused by, or have been linked to, exposure to airborne silica dust:

- Silicosis
- Acute silicosis (rapid development after brief exposure to high concentrations of silica dust)
- Silicotuberculosis (silicosis sufferers are at a higher risk of developing tuberculosis)
- Lung cancer
- Chronic bronchitis
- Emphysema
- Kidney damage
- Autoimmune conditions

Crystalline silica is most dangerous when dust is generated, which becomes airborne and is then inhaled. A wide range of work activities can generate respirable silica dust particles across a number of industries. These include:

- fabrication and installation of composite (engineered or manufactured) stone bench tops popular in residential kitchens and bathrooms
- excavation, earth moving and drilling plant operations

- abrasive blasting
- clay and stone processing machine operations
- mining, quarrying and mineral ore treating processes
- tunneling
- construction, building, demolition and labouring activities
- brick & glass making
- road building
- foundry or casting work
- hydraulic fracturing (fracking)
- stonework, masonry work
- artists, art teachers & cleaners (working with ceramics, pottery, glass and earthenware)
- jewellers, particularly in developing countries.

In 1997 the International Agency for Research on Cancer (IARC) reported that “Crystalline silica is probably one of the most documented workplace contaminants; the severity of its health effects and the widespread nature of exposure have long been recognized.”²

Recent Australian research suggests that 6.6% of Australian workers were exposed to RCS and 3.7% were highly exposed. This would be the equivalent of 329,000 workers.³

² IARC Monographs on the Evaluation of Carcinogenic Risks to Humans, Volume 68.

³ Si Si, et al, *The Australian Work Exposures Study: Prevalence of Occupational Exposure to Respirable Crystalline Silica*, Annual Occupational Hygiene, 2016, Vol. 60, No. 5.

Of great risk to workers is the increase in purchase and installation of manufactured stone (Caesarstone) in the domestic kitchen and bathroom bench top industry. Manufactured, artificial or engineered stone was introduced into the Australian market in the late 1980's. It is a denser product with almost no porosity, which adds to its strength and durability, making it less likely to scratch, chip and stain. The density also provides for a more hygienic surface. While not necessarily cheaper than natural stone the product allows for a greater choice in colour options and this, along with its durability, has increased its popularity amongst consumers. Manufactured stone can contain amounts of silica in excess of 90% creating a much greater risk for workers cutting this stone in preparation for installation.

The work often mostly occurs in the domestic market. In NSW a large percentage of this workforce is made up of employees from non-English speaking backgrounds. These workers are often employed by small or micro-businesses or are independent contractors or sub-contractors. There is a low level of unionism among these workers and they are less likely to be supported by fellow workers elected to be Health & Safety Representatives (HSR's). These factors combine to create a workforce with a limited understanding of Work Health and Safety (WHS) laws and little to no capacity to apply the necessary controls to eliminate or minimize the risks associated

with their work.

Prevention

Exposure

Prevention of silicosis is based on eliminating and reducing exposure to RCS.

Under the Work Health & Safety Regulations 2017 (NSW) (the Regulations), chapter 3 division 7 deals with '*managing risks from airborne contaminants*'. Clause 49 requires that a person conducting a business or undertaking (PCBU's) '*must ensure that no person at the workplace is exposed to a substance or mixture in an airborne concentration that exceeds exposure standard for the substance or mixture*', and outlines penalties for contraventions of this requirement. Clause 50 states the PCBU is only required to monitor air quality if;

- (a) *the person is not certain on reasonable grounds whether or not the airborne concentration of the substance or mixture at the workplace exceeds the relevant exposure standard, or*
- (b) *monitoring is necessary to determine whether there is a risk to health.*

Unions NSW is concerned that air monitoring is not occurring where it should. Monitoring of air quality is expensive and therefore prohibitive. Furthermore

SafeWork NSW advises PCBU's that where engineering controls and personal protective equipment (PPE) is in use, air monitoring is not necessary. An absence of air monitoring has created an absence of data. We simply do not know what the air quality is like in most workplaces.

Both the Construction Forestry Maritime Mining Energy Union (CFMMEU) and the Australian Workers Union (AWU) have expressed concerns to Unions NSW and the Regulator over the quality of air, the lack of engineering controls and lack of use of PPE, in both the WestConnex and NorthConnex tunneling projects in Sydney. Community pressure has forced the monitoring of air quality above ground around the WestConnex project in Haberfield. We are not aware of any air monitoring in the tunnel and therefore we do not know of the likely harm currently being caused to workers.

Unions NSW recommends government subsidised air quality monitoring of workplaces where any exposure to dust occurs. This must be mandated to ensure it occurs. This will assist with data collection and research into this hazard, as well as ensuring workers are not exposed to unsafe levels of silica.

Workplace exposure standards

The current workplace exposure standard for respirable crystalline silica that must not be exceeded is 0.1mg/m³ of air (eight hour time weighted

average- TWA). PCBU's should keep worker exposures to respirable silica dust as low as reasonably practicable.⁴

The United States has implemented a silica dust exposure standard of 0.025mg/m³ as an eight-hour time weighted average. We are concerned that the Australian standard is four times this amount.

Unions NSW recommends a reduction in the exposure standard from 0.1mg/m³ to 0.025mg/m³ to match that of the United States.

Medical Screenings

Icare provides a free medical screening service for workers and retired workers with a history of exposure to occupational dusts.⁵ This involves a mobile bus service which visits various industry sites in both metropolitan and regional areas of NSW.

Unions NSW supports this initiative however we would like to see this service increased. We know that many of the workers currently at the greatest risk of developing silicosis are working within metropolitan Sydney and are often drawn from different migrant communities. A free service must be made easily available to these workers. With

⁴ <https://www.safeworkaustralia.gov.au/doc/workplace-exposure-standards-airborne-contaminants>

⁵ Legislative Council Standing Committee on Law and Justice, First Review of the Dust Diseases Scheme, Report 61 August 2017 at 1.55-1.57.

advertising in languages targeting the different migrant communities working in the installation of kitchen and bathroom bench-tops.

Unions NSW recommends that icare and the NSW Government expand the mobile bus service and provide free screening to all workers.

Disease Registry

Unions NSW understands that there is a significant gap in the reported instances of silicosis recorded by SafeWork NSW statistics and the actual spread of the disease. We support the calls for a centralised, comprehensive health surveillance and occupational lung diseases national register by the Lung Foundation Australia, the Thoracic Society of Australia and New Zealand (TSANZ) and the Australasian Faculty of Occupational and Environmental Medicine (AFOEM)⁶.

We understand that this is outside of the terms of reference of the review, however the silicosis crises is not limited to particular States or Territories and would be best approached on a national level.

Unions NSW recommends NSW lead the way in best practice by introducing measures to establish dust

⁶ Legislative Council Standing Committee on Law and Justice, First Review of the Dust Diseases Scheme, Report 61 August 2017 at 2.40 ff.

diseases registries and legislate for the mandatory reporting of dust diseases.

Control Measures

Unions NSW agrees that control measures must always be used when working with silica to avoid inhalation.

We support the proposed advertising campaign by the Manufactured Stone Industry Taskforce aimed at raising awareness of the risks associated with working with silica, particularly those targeted at migrant communities.

Unions NSW has concerns that some of the control measures may not provide adequate protection. In participating in the Manufactured Stone Industry Taskforce we have received mixed messages about some of these controls. It has been anecdotally indicated to us that there is some suggestion that wet cutting may not eliminate the risk to the degree thought. In the United States wet cutting is mandatory, however emerging evidence is suggesting this may not provide the level of safety required.

Another area of uncertainty exists around the type of mask necessary to provide adequate protection with some suggesting a half face mask is adequate and others advocating for a full face mask.

The *Small Entity Compliance Guide for the Respirable Crystalline Silica Standard for Construction* published by Occupational Safety and Health Administration U.S. Department of Labour (OSHA) provides a source of guidance for engineering and PPE controls that should be considered by the NSW Government, however until certainty exists, controls should be tested for their effectiveness.

Unions NSW would like to see further research undertaken to establish the effectiveness of currently recommended engineering & PPE control measures such as wet cutting vs. dry cutting.

Unions NSW believes these recommendations should be seriously considered and implemented as a matter of urgency to halt the current silicosis epidemic and prevent future unnecessary deaths. Should these measures not be implemented Unions NSW would have no other option but to recommend banning the use of manufactured stone products in NSW.

