

INQUIRY INTO 2021 REVIEW OF THE DUST DISEASES SCHEME

Organisation: SafeWork NSW
Date Received: 10 December 2021

The Hon Wes Fang MLC
Chair
Standing Committee on Law and Justice
Legislative Council
Parliament of NSW

Via email: law@parliament.nsw.gov.au

Dear Chair

2021 Review of the Dust Diseases Scheme

Thank you for the opportunity to make a submission to the 2021 Review of the Dust Diseases Scheme (**the Review**).

I understand that the Review will again consider the prevention of silicosis in the manufactured stone industry. I am able to provide an update on SafeWork NSW's (**SafeWork**) activities in relation to silicosis prevention.

A strong legislative framework

The *Work Health and Safety Act 2011* (**WHS Act**) and the *Work Health and Safety Regulation 2017* (**WHS Regulation**) provide a strong preventative framework for managing the risks to workers' health posed by hazardous dusts. The WHS Act and WHS Regulation are supported by Codes of Practice in relevant industries which provide guidance to businesses and workers on how to comply with their WHS obligations. SafeWork monitors and enforces compliance with the general protections in the Act and Regulation, specific protections for certain dusts, including silica and asbestos, and Workplace Exposure Standards for hazardous chemicals.

The WHS Act and WHS Regulation are based on national model legislation and SafeWork NSW continues to work with interjurisdictional colleagues through Safe Work Australia on reforms to enhance the existing legislative framework in relation to dust diseases. A significant development in this area is agreement on a national model Code of Practice, *Managing the risks of respirable crystalline silica from engineered stone in the workplace*, which is expected to be published by Safe Work Australia shortly. The Code will provide practical guidance on how to effectively manage risks associated with working with engineered stone, and minimise the incidence of silica-related diseases.

Evidence-based strategies

SafeWork has put in place long-term, evidence-based strategies which set the direction for its educational, compliance and enforcement activities in relation to dust hazards. The *2017-2022 Hazardous Chemicals and Materials Exposures Baseline and Reduction Strategy* (**Hazardous Chemicals Strategy**) aims to identify and reduce the level and impact of workplace exposures to hazardous chemicals. The Hazardous Chemicals Strategy has four key components - awareness, interactions, research, and legislation - and identifies silica as a priority chemical for action in these areas.

An independent mid-point review of the Hazardous Chemicals Strategy found that 90 per cent of workers had noticed at least one change in their management's safety approach following

inspector visits to their workplace, and three in four reported that new safety equipment or tools had been purchased.

The Hazardous Chemicals Strategy is supported by the *NSW Dust Strategy (Dust Strategy)* which aims to prevent occupational diseases by providing workers and businesses with a co-ordinated approach for the safe handling of materials that generate hazardous dust including asbestos, silica and wood. Under the Dust Strategy, businesses and workers are supported to work safely in accordance with best practice principles and the controls relevant to different dust types. The Strategy provides a coordinated approach for SafeWork NSW and industry to:

- respond to current and emerging dust-related harms by following three key principles that apply to all dust;
- prevent dust exposure through compliance, regulation, awareness and education; and
- educate workers about dust exposure with consistent communication of best-practice safety controls for different dust types and work activities.

SafeWork continues to take action in accordance with these strategies to engage with businesses and workers to provide education and guidance on how to manage the risks of working with silica, to undertake strong compliance action where necessary, and to closely monitor the prevalence of silicosis in NSW. SafeWork's other silica-focused activities under these strategies include world-leading research on new technologies, and working with other Australian jurisdictions to develop a nationally co-ordinated and collaborative approach to preventing silica-related disease. Details of these activities are provided below.

Raising awareness and educating businesses on working safely with silica

SafeWork's growing range of initiatives to educate businesses and workers on how to work safely with silica-containing products now includes the following:

- Video safety alerts on crystalline silica dust safety, and specifically on the safe cutting of bricks and concrete that contain silica, showing the use of on-tool dust capture and water, which have received more than 10,000 views. Video safety alerts on the correct fitting of respiratory protection equipment, safe drilling, demolishing and excavating are in production.
- The delivery of a Silica Symposium in 2019, to more than 350 businesses and a regional roadshow series across six locations with 640 attendees. 95 per cent of attendees at the Symposium rated it a valuable event and attendees at the roadshows rated the program 4.4/5. The symposium's MC was Dr Karl Kruszelnicki who was also the face of an awareness campaign across radio, social media and video. The Dr Karl video reached 200,000 views. Industry engagement events to follow on from the Symposium and roadshows are being planned for 2022.
- SafeWork's analysis of recent silicosis cases diagnosed in NSW shows that it is vital that safety messages reach workers who do not speak English or speak English as a second language. Translated resources on working safely with silica have been developed and are available through the SafeWork translated resources hub. Languages include Mandarin, Arabic and Vietnamese.
- SafeWork has developed a webinar on health monitoring to help businesses understand their obligation to arrange regular health monitoring for workers who face significant risks from exposure to crystalline silica. It refers businesses to icare's Lung Screen Service. Eligible businesses who complete the webinar can apply for a \$500 small business rebate, to invest in safety equipment.

- SafeWork NSW delivered a safety rebate specific to the manufactured stone industry from January – June 2020 with \$1000 for each manufactured stone business to contribute to the cost of purchasing silica safety solutions. This is in addition to the ongoing NSW Small Business Safety Rebate worth \$500. In total, 191 rebates worth \$129,919 have been processed for silica-related safety items with an industry investment of \$247,785.
- SafeWork is supporting the national *Clean Air Clear Lungs* campaign, which seeks to educate persons conducting a business or undertaking (PCBUs) on how to eliminate or manage the risk of their workers developing an occupational lung disease, including silicosis. SafeWork NSW produced a 30-second Facebook advertisement in September 2021, which reached more than 95,000 people, with more than 30,000 watching the video to the end and 500 extra visits to the NSW Dust Strategy webpage to access information and resources. The campaign is running again in November 2021.
- In August 2021, Artibus Innovation (the organisation responsible for developing national skills training standards) presented five draft Units of Competency for working with materials and products containing silica to the Construction, Plumbing and Service Industry Reference Committee, ahead of public consultation in August and September 2021. The Units are due to be lodged with the Department of Education, Skills and Employment in March 2022. This program of work was a recommendation of the 2019 NSW Manufactured Stone Industry Taskforce convened by SafeWork NSW.
- SafeWork is engaging early with the engineered stone industry on their preferred mode for SafeWork to deliver information on the new model Code of Practice, *Managing the risks of respirable crystalline silica from engineered stone in the workplace* for working with engineered stone. Engagement with the engineered stone industry occurred during October 2021, via a survey, to determine preferences for education sessions on the code early in 2022.

Focus on compliance

SafeWork has a well-established workplace visit program to ensure that businesses are working safely with crystalline silica. The silica workplace visit program began in 2018 and will run until 2022. SafeWork's first round of visits to manufactured stone sites was completed by 30 June 2019. The second round is now well underway. The table below sets out the key statistics in relation to those rounds of visits, and shows an improvement in compliance with a reduction in the rate of notices issued:

VISITS – Round One Manufactured Stone (by 30 June 2019)	All manufactured stone (fabrication) sites visited: • 246 sites • 639 visits (some had follow-up visits) • 656 improvement notices issued (80% [531] relate to silica) • 43 prohibition notices issued.
VISITS – Round Two Manufactured Stone Underway	As at 30 September 2021: • 318 visits to 147 manufactured stone (fabrication) sites • 189 silica-related improvement notices issued • 7 prohibition notices issued • 2 on-the-spot fines issued for uncontrolled dry cutting • 24 businesses that could not be confirmed as meeting the new workplace exposure standard 0.05mg/m³.

In total to 30 September 2021, SafeWork has conducted 6,319 business interactions under the Hazardous Chemicals Strategy, including 1530 silica-related workplace visits. The table below breaks these down by industry:

Silica-related workplace visits by SafeWork inspectors under the Hazardous Chemicals Strategy			
Manufactured stone	Construction	Other silica-exposed industries (tunnelling, manufacturing, foundries, stonemasons)	Total
874	566	90	1530

- In total as at 30 September 2021, SafeWork has issued 1024 improvement notices, and 41 prohibition notices for uncontrolled exposure to silica-dust, including 36 prohibition notices for uncontrolled dry processing (25 in manufactured stone industry, 11 in construction).
- SafeWork NSW has reviewed 161 matters relating to silicosis adverse health monitoring reports covering the years 2017/18–2020/21. 15 matters progressed to full investigation, with 7 currently underway and two matters filed in court.
- The Government halved the workplace exposure standard for respirable crystalline silica to 0.05mg/m³ from 1 July 2020, in response to new evidence showing adverse health effects for workers at higher concentrations. Since then, SafeWork has identified 37 worksites (25 in the manufactured stone industry and 12 in construction), where control measures could not be confirmed as meeting the new exposure standard and issued notices as a result.
- On 1 July 2020 the Government explicitly prohibited uncontrolled dry processing of manufactured stone by an amendment to the WHS Regulation. Although dry processing was already prohibited by the general prohibitions in the WHS Act, this prohibition makes it even plainer to business and workers that this practice is prohibited, and in addition to issuing notices, SafeWork can issue on-the-spot fines. Since then, SafeWork has issued two on-the-spot fines for uncontrolled dry processing.

Improved monitoring of silica-related disease

The Government has put in place measures to ensure that the incidence of silica-related disease is closely monitored by WHS regulators.

- Silicosis is now a scheduled medical condition under the *Public Health Act 2010*, with the effect that medical practitioners who diagnose a patient with silicosis are required to notify NSW Health using a form designed to capture information of assistance to WHS Regulators. Asbestosis is now also a scheduled medical condition.
- Amendments to the WHS Act, which commenced on 27 October 2020, enable NSW Health to share notifications of a diagnosis of silicosis, asbestosis and mesothelioma with SafeWork.
- The same amendments require SafeWork to maintain a Dust Diseases Register that captures information provided by NSW Health and enables improved monitoring and analysis of the incidence of silicosis in NSW.

- The first annual report on the Dust Diseases Register has been tabled in the Legislative Assembly. The 2020-2021 Annual Report on the Dust Diseases Register (**Annual Report**) sets out the number of notifications of a diagnosis of silicosis and asbestos-related diseases received by SafeWork during the financial year. It analyses demographic information from those notifications and sets out the activities SafeWork has undertaken to meet the purposes of the Dust Diseases Register. I enclose a copy of the Annual Report.
- The Government now maintains a Silica Dashboard on the nsw.gov.au website. The Silica Dashboard is regularly updated with new figures and information on silicosis prevalence, compliance action, and useful resources for businesses working with silica.
- SafeWork has conducted a case-finding study to investigate respirable crystalline silica exposure in the manufactured stone industry and to gather information to improve the identification and assessment of workers at risk of exposure. The case-finding study was conducted in accordance with the requirements of section 276A of the WHS Act, and drew on data provided by SafeWork, NSW Health and icare. The Final Report on the Case-Finding Study (**Case-Finding Study**) was published on the NSW Government Silica Dashboard. I enclose a copy of the Case-Finding Study.

World-leading research

SafeWork's Centre for Work Health and Safety has completed Phase One of a research project on the development of real-time silica detection devices. Significant testing has shown that the technology is able to accurately monitor silica dust exposure in real time. This device and the technology within will now follow a fast-tracked path to commercialisation.

A national and collaborative approach to occupational lung disease

In June 2021, the National Dust Disease Taskforce (**National Taskforce**) provided its final report to the Commonwealth Minister for Health and Aged Care. I understand that the Commonwealth will lead a nationally co-ordinated and collaborative response to the report. SafeWork has been involved in preliminary discussions on the implementation of recommendations made by the National Taskforce, including the development of a national dust disease register.

SafeWork also continues to work with Safe Work Australia and other Australian jurisdictions on a collaborative approach to the regulation of silica, and the development of guidance and educational materials.

I trust this information assists the Committee in conducting the Review.

Yours sincerely

Rose Webb
Deputy Secretary, Better Regulation

Attachments:

2020-2021 Annual Report on the NSW Dust Diseases Register

Final Report on the Case-Finding Study: Respirable Crystalline Silica Exposure in the Manufactured Stone Industry.