

NORTHERN TERRITORY OF AUSTRALIA

WORK HEALTH AND SAFETY (NATIONAL UNIFORM LEGISLATION)  
AMENDMENT (CRYSTALLINE SILICA SUBSTANCES)  
REGULATIONS 2024

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Subordinate Legislation No. 21 of 2024

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Table of provisions

1	Title.....	2
2	Commencement .....	2
3	Regulations amended.....	2
4	Regulation 5 amended (Definitions) .....	2
5	Chapter 8A heading replaced .....	3
6	Part 8A.1 replaced.....	3
	Part 8A.1 Preliminary matters	
	529A Definitions	
	529B When processing of CSS is <i>controlled</i>	
	529C Duty for processing of CSS to be controlled	
	529CA Identifying processing of CSS that is high risk	
	529CB Silica risk control plan required for processing of CSS that is high risk	
	529CC Compliance with silica risk control plan	
	529CD Duty to train workers about risks of crystalline silica	
	529CE Monitoring in relation to processing of CSS that is high risk	
7	Parts 8A.4 and 8A.5 repealed.....	12
8	Schedule 19 amended (Infringement notice offences and prescribed amounts).....	12
9	Schedule 19 further amended (Infringement notice offences and prescribed amounts).....	13
10	Regulations further amended .....	13
11	Repeal of Regulations .....	13

**Schedule Regulations further amended**





# NORTHERN TERRITORY OF AUSTRALIA

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**Subordinate Legislation No. 21 of 2024**

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***Work Health and Safety (National Uniform Legislation) Amendment  
(Crystalline Silica Substances) Regulations 2024***

I, Hugh Crosby Heggie, Administrator of the Northern Territory of Australia, acting with the advice of the Executive Council, make the following regulations under the *Work Health and Safety (National Uniform Legislation) Act 2011*.

Responsible Minister:

C. J. PAECH  
Attorney-General and Minister for Justice

H. C. HEGGIE  
Administrator

Date of making: 30 July 2024

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## 1 Title

These Regulations may be cited as the *Work Health and Safety (National Uniform Legislation) Amendment (Crystalline Silica Substances) Regulations 2024*.

## 2 Commencement

- (1) These Regulations (except regulations 4 to 8) commence on the day after the day on which they are made.
- (2) Regulations 4 to 8 commence on 1 September 2024.

## 3 Regulations amended

These Regulations amend the *Work Health and Safety (National Uniform Legislation) Regulations 2011*.

## 4 Regulation 5 amended (Definitions)

- (1) Regulation 5(1), definitions ***controlled*** and ***processing***  
*omit*

- (2) Regulation 5(1)

*insert*

***controlled***, in relation to the processing of a CSS, see regulation 529B.

***crystalline silica***, see regulation 529A.

***crystalline silica substance (CSS)***, see regulation 529A.

***high risk***, in relation to the processing of a CSS, means the processing of a CSS that is reasonably likely to result in a risk to the health of a person at the workplace.

***processing***, in relation to a CSS, see regulation 529A.

***silica risk control plan*** means, in relation to the processing of a CSS that is high risk, a silica risk control plan prepared under regulation 529CB.

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**5 Chapter 8A heading replaced**

Chapter 8A, heading

*omit, insert*

**Chapter 8A Crystalline silica**

**6 Part 8A.1 replaced**

Part 8A.1

*repeal, insert*

**Part 8A.1 Preliminary matters**

**529A Definitions**

In these Regulations:

**crystalline silica** means crystalline polymorphs of silica and includes the following substances:

- (a) cristobalite;
- (b) quartz;
- (c) tridymite;
- (d) tripoli.

**crystalline silica substance (CSS)** means material that contains at least 1% crystalline silica, determined as a weight/weight (w/w) concentration.

*Example for definition crystalline silica substance (CSS)*

*Engineered stone is a type of CSS.*

**engineered stone** means a CSS that:

- (a) is an artificial product; and
- (b) is created by combining natural stone materials with other chemical constituents such as water, resins or pigments; and
- (c) becomes hardened;

but does not include the following:

- (d) concrete or cement products;

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- (e) bricks, pavers or other similar blocks;
  - (f) ceramic wall or floor tiles;
  - (g) grout, mortar or render;
  - (h) plasterboard;
  - (i) porcelain products;
  - (j) sintered stone;
  - (k) roof tiles.

**processing**, in relation to a CSS, means any of the following:

- (a) the use of power tools or mechanical plant to carry out an activity involving the crushing, cutting, grinding, trimming, sanding, abrasive polishing or drilling of a CSS;
- (b) the use of roadheaders to excavate material that is a CSS;
- (c) the quarrying of a material that is a CSS;
- (d) mechanical screening involving a material that is a CSS;
- (e) tunnelling through a material that is a CSS;
- (f) a process that exposes, or is reasonably likely to expose, a person to respirable crystalline silica during the manufacture or handling of a CSS.

**529B When processing of CSS is *controlled***

- (1) In these Regulations, the processing of a CSS is ***controlled*** if:
  - (a) control measures to eliminate or minimise risks arising from the processing are implemented so far as is reasonably practicable; and
  - (b) at least one of the following measures are used during the processing:
    - (i) the isolation of a person from dust exposure;
    - (ii) a fully enclosed operator cabin fitted with a high efficiency air filtration system;
    - (iii) an effective wet dust suppression method;
    - (iv) an effective on-tool extraction system;

- 
- (v) an effective local exhaust ventilation system; and
  - (c) a person still at risk of being exposed to respirable crystalline silica after one or more of the measures in paragraph (b) are used:
    - (i) is provided with respiratory protective equipment; and
    - (ii) wears the respiratory protective equipment while the work is carried out.

*Note for subregulation (1)*

*See also regulation 351.*

- (2) Despite subregulation (1), if the measures in subregulation (1)(b) are not reasonably practicable, the processing of a CSS is controlled if a person who is at risk of being exposed to respirable crystalline silica during the processing:
  - (a) is provided with respiratory protective equipment; and
  - (b) wears the respiratory protective equipment while the work is carried out.
- (3) In this regulation:

***respiratory protective equipment*** means personal protective equipment that:

- (a) is designed to prevent a person wearing the equipment from inhaling airborne contaminants; and
- (b) complies with:
  - (i) AS/NZS 1716:2012 (Respiratory protective devices); and
  - (ii) AS/NZS 1715:2009 (Selection, use and maintenance of respiratory protective equipment).

*Note for regulation 529B*

*Regulations 44, 45 and 46 apply to the provision and use of personal protective equipment, including the respiratory protective equipment provided under subregulations (1)(c) and (2).*

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**529C Duty for processing of CSS to be controlled**

A person conducting a business or undertaking must not carry out, or direct or allow a worker to carry out, processing of a CSS unless the processing is controlled.

Maximum penalty:

- (a) in the case of an individual – \$6 000.
- (b) in the case of a body corporate – \$30 000.

*Notes for regulation 529C*

1 *Strict liability applies to each physical element of this offence. See section 12B of the Act.*

2 *Regulations 529D and 529F apply to the processing of engineered stone.*

**529CA Identifying processing of CSS that is high risk**

- (1) A person conducting a business or undertaking at a workplace must assess the processing of a CSS carried out by the business or undertaking at the workplace to determine if the processing is high risk.

Maximum penalty:

- (a) in the case of an individual – \$6 000.
- (b) in the case of a body corporate – \$30 000.

*Note for subregulation (1)*

*Strict liability applies to each physical element of this offence. See section 12B of the Act.*

- (2) In assessing whether the processing of a CSS is high risk, the person must have regard to the following:
  - (a) the specific processing that will be undertaken;
  - (b) the form or forms of crystalline silica present in the CSS;
  - (c) the proportion of crystalline silica contained in the CSS, determined as a weight/weight (w/w) concentration;
  - (d) the hazards associated with the work, including the likely frequency and duration that a person will be exposed to respirable crystalline silica;



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- (e) whether the airborne concentration of respirable crystalline silica that is present at the workplace is reasonably likely to exceed half the workplace exposure standard;
  - (f) any relevant air and health monitoring results previously undertaken at the workplace;
  - (g) any previous incidents, illnesses or diseases associated with exposure to respirable crystalline silica at the workplace.
- (3) In assessing whether the processing of a CSS is high risk, the person must not:
- (a) rely on the control measures implemented under regulation 529B(1)(b); or
  - (b) have regard to the use of personal protective equipment and administrative controls used to control the risks associated with respirable crystalline silica.
- (4) The person must ensure that a risk assessment conducted under subregulation (1) is recorded in writing.

Maximum penalty:

- (a) in the case of an individual – \$1 250.
- (b) in the case of a body corporate – \$6 000.

*Note for subregulation (4)*

*Strict liability applies to each physical element of this offence. See section 12B of the Act.*

- (5) If a person conducting a business or undertaking is unable to determine whether the processing of a CSS carried out at the workplace is high risk, the processing is taken to be high risk until the person determines that the processing is not high risk.

**529CB Silica risk control plan required for processing of CSS that is high risk**

- (1) A person conducting a business or undertaking carrying out the processing of a CSS that is high risk must, before the processing commences, ensure that a silica risk control plan for the processing:
- (a) is prepared; or

- 
- (b) has already been prepared by another person.

Maximum penalty:

- (a) in the case of an individual – \$6 000.
- (b) in the case of a body corporate – \$30 000.

*Note for subregulation (1)*

*Strict liability applies to each physical element of this offence. See section 12B of the Act.*

- (2) A silica risk control plan must:
  - (a) identify all the processing of a CSS carried out at the workplace that is high risk; and
  - (b) include the risk assessment undertaken under regulation 529CA for all processing of a CSS that is high risk; and
  - (c) document what control measures will be used to control the risks associated with the processing that is high risk and how those measures will be implemented, monitored and reviewed; and
  - (d) be set out and expressed in a way that is readily accessible and understandable to persons who use it.
- (3) A silica risk control plan is not required to be prepared before the processing of a CSS that is high risk if:
  - (a) the processing that is high risk is also high risk construction work; and
  - (b) a safe work method statement is prepared, or has already been prepared by another person, before the processing commences; and
  - (c) the safe work method statement satisfies the requirements of subregulation (2).

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## 529CC Compliance with silica risk control plan

- (1) A person conducting a business or undertaking carrying out the processing of a CSS that is high risk must put in place arrangements for ensuring that the processing is carried out in accordance with the silica risk control plan, including by ensuring that the silica risk control plan is:
- (a) available to all workers; and
  - (b) provided to all workers before they commence the processing.

Maximum penalty:

- (a) in the case of an individual – \$6 000.
- (b) in the case of a body corporate – \$30 000.

*Note for subregulation (1)*

*Strict liability applies to each physical element of this offence. See section 12B of the Act.*

- (2) If the processing of a CSS that is high risk is not carried out in accordance with the silica risk control plan that applies to the processing, the person must ensure that the processing:
- (a) is stopped immediately or as soon as it is safe to do so; and
  - (b) resumed only in accordance with the silica risk control plan.

Maximum penalty:

- (a) in the case of an individual – \$6 000.
- (b) in the case of a body corporate – \$30 000.

*Note for subregulation (2)*

*Strict liability applies to each physical element of this offence. See section 12B of the Act.*

- (3) A person conducting a business or undertaking must ensure that a silica risk control plan is reviewed and as necessary revised if relevant control measures are revised under regulation 38.

Maximum penalty:

- (a) in the case of an individual – \$3 600.

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- (b) in the case of a body corporate – \$18 000.

*Note for subregulation (3)*

*Strict liability applies to each physical element of this offence. See section 12B of the Act.*

#### **529CD Duty to train workers about risks of crystalline silica**

- (1) A person conducting a business or undertaking must ensure that a worker receives crystalline silica training if the person reasonably believes that the worker may be:

- (a) involved in the processing of a CSS that is high risk; or
- (b) at risk of exposure to respirable crystalline silica because of the processing of a CSS that is high risk.

Maximum penalty:

- (a) in the case of an individual – \$6 000.
- (b) in the case of a body corporate – \$30 000.

*Note for subregulation (1)*

*Strict liability applies to each physical element of this offence. See section 12B of the Act.*

- (2) The person must ensure that a record is kept of the training undertaken by the worker:

- (a) while the worker is carrying out the processing of a CSS that is high risk; and
- (b) for 5 years after the day the worker ceases working for the person.

Maximum penalty:

- (a) in the case of an individual – \$1 250.
- (b) in the case of a body corporate – \$6 000.

*Note for subregulation (2)*

*Strict liability applies to each physical element of this offence. See section 12B of the Act.*

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- (3) The person must keep the record available for inspection under the Act.

Maximum penalty:

- (a) in the case of an individual – \$1 250.
- (b) in the case of a body corporate – \$6 000.

*Note for subregulation (3)*

*Strict liability applies to each physical element of this offence. See section 12B of the Act.*

- (4) In this regulation:

**crystalline silica training** means training that is accredited, or training approved by the regulator, in relation to the following:

- (a) the health risks associated with exposure to respirable crystalline silica;
- (b) the need for, and proper use of, any risk control measures required by these Regulations.

*Note for regulation 529CD*

*Part 3.2, Division 1 also applies to a person conducting a business or undertaking involving the processing of a CSS.*

### **529CE Monitoring in relation to processing of CSS that is high risk**

A person conducting a business or undertaking that is carrying out, or directing or allowing a worker to carry out, the processing of a CSS that is high risk, must:

- (a) undertake air monitoring for respirable crystalline silica in accordance with regulation 50; and
- (b) provide air monitoring results to the regulator, in a form approved by the regulator, if the airborne concentration of respirable crystalline silica has exceeded the workplace exposure standard:
  - (i) as soon as reasonably practicable; and
  - (ii) in any event no more than 14 days from the date the air monitoring result was reported to the person conducting a business or undertaking; and

- 
- (c) provide health monitoring for all workers carrying out the processing of a CSS that is high risk in accordance with Part 7.1, Division 6.

Maximum penalty:

- (a) in the case of an individual – \$6 000.  
(b) in the case of a body corporate – \$30 000.

*Note for regulation 529CE*

*Strict liability applies to each physical element of this offence. See section 12B of the Act.*

## **7 Parts 8A.4 and 8A.5 repealed**

Parts 8A.4 and 8A.5

*repeal*

## **8 Schedule 19 amended (Infringement notice offences and prescribed amounts)**

- (1) Schedule 19, Table 19.1, entries relating to *Work Health and Safety (National Uniform Legislation) Regulations 2011*

*insert (in numerical order)*

regulation 529C	\$720	\$3 600
regulation 529CA(1)	\$720	\$3 600
regulation 529CA(4)	\$144	\$720
regulation 529CB(1)	\$720	\$3 600
regulation 529CC(1) or (2)	\$720	\$3 600
regulation 529CC(3)	\$432	\$2 160
regulation 529CD(1)	\$720	\$3 600
regulation 529CAD(2) or (3)	\$144	\$720
regulation 529CE	\$720	\$3 600

- (2) Schedule 19, Table 19.1, entries for regulations 529L(2) and 529M of the *Work Health and Safety (National Uniform Legislation) Regulations 2011*

*omit*

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**9 Schedule 19 further amended (Infringement notice offences and prescribed amounts)**

Schedule 19, Table 19.1, entries relating to *Work Health and Safety (National Uniform Legislation) Regulations 2011*

*insert (in numerical order)*

regulation 529D	\$720	\$3 600
regulation 529G(2)	\$432	\$2 160
regulation 529H(1)	\$432	\$2 160
regulation 529J(2)	\$432	\$2 160
regulation 529K	\$432	\$2 160
regulation 529L(2)	\$720	\$3 600
regulation 529M	\$720	\$3 600

**10 Regulations further amended**

The Schedule has effect.

**11 Repeal of Regulations**

These Regulations are repealed on the day after they commence.

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**Schedule Regulations further amended**

regulation 10

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Provision	Amendment	
	<i>omit</i>	<i>insert</i>
Regulation 529D, penalty provision	50 penalty units.	\$6 000.
	250 penalty units.	\$30 000.
Regulations 529G(2), 529H(1), 529J(2) and 529K, penalty provisions	30 penalty units.	\$3 600.
	150 penalty units.	\$18 000.
Regulations 529L(2) and 529M, penalty provisions	50 penalty units.	\$6 000.
	250 penalty units.	\$30 000.

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