california surfaces

October 30th, 2026

VIA ELECTRONIC SUBMISSION

Cal/OSHA Research and Standards Branch
2520 Venture Oaks Way, Suite 350
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Re: Comments on the October 22, 2026 discussion draft of Section 5204.1 (Prohibition of the Manufacture and Fabrication of Artificial Stone Slabs or Panels Containing 1.0% or More Crystalline Silica) and related amendments to Sections 5204 and 1532.3

Dear Research and Standards Branch Staff:

My name is Peter Dominguez, and I'm President of California Surfaces, a family-owned countertop fabricator and installer in Southern California. I submitted comments on the initial draft in September, and I appreciate the chance to comment on this one.

The new draft addresses several issues that other commenters and I raised. It adds important exclusions to the definition of artificial stone, closes the installation loophole, and spells out which on-site work counts as fabrication.

Two issues from my September comments remain unresolved. Here's what I'd change:

1. Keep the emergency about the prohibition. Move the other 5204 changes to regular rulemaking.

The Board granted Petition 609 to prohibit the fabrication and installation of artificial stone containing 1% or more crystalline silica. To carry that out, a regulation has to do a handful of things: define the material, set the dates, tell workers, give employers a way to show what they're cutting, and give the Division a way to enforce it. Sections 5204.1 and 1532.3 do all of that, and Section 5204(a)(5) covers how the existing standard applies during the phase-out.

The rest of the 5204 changes don't do any of that work. Take them out, and the ban still functions exactly the same: the same material is prohibited on the same dates, enforced the same way.

They aren't needed for the phase-out either. Quartz fabrication during the phase-out is already governed by the current Section 5204, which was written for this industry. When the Board adopted it, it said the primary focus of the new requirements for high-exposure trigger tasks is to protect workers in the artificial stone fabrication industry. Those protections are already in place. Once the phase-out ends, the material they were written for is banned.

Many of the provisions this draft rewrites were settled less than two years ago. The current standard went through regular rulemaking, with a 45-day public comment period, a public hearing, and two 15-day notices of proposed modifications. The Board then published a Final Statement of Reasons explaining each decision[1].

The Board shouldn't be so quick to throw out its own conclusions.

Take for example Exception 2. It lets a fabrication employee use a fit-tested, tight-fitting half-face elastomeric respirator, but only if exposures stay below the action level as shown by independent third-party sampling every six months, every employee is in medical surveillance, and no employee has ever been diagnosed with silicosis. That's a high bar, and the Board set it on purpose. It called the exception "necessary" because it lowers respirator costs and gives employers a reason to keep exposure levels down and get their employees tested. The draft deletes it without saying what changed. It does the same to the loose-fitting PAPR, even though in that rulemaking the Board added a filter requirement specifically to protect workers using respirators with an APF of 25 or 50.

If Cal/OSHA now believes those conclusions were wrong, it should say why, using the same process that produced them. The Board voted to prohibit use of a material. It didn't vote to rewrite the silica standard.

Cal/OSHA should keep the cross-reference in Section 5204(a)(5) that ties Section 5204 to the prohibition, and **move the rest of the 5204 amendments to regular rulemaking.**

[1] Occupational Safety and Health Standards Board, *Final Statement of Reasons, Title 8, Section 5204, Occupational Exposures to Respirable Crystalline Silica* (public hearing June 20, 2024). https://www.dir.ca.gov/oshsb/documents/Respirable-Crystalline-Silica-Non-Emergency-FSOR.pdf

2. Match the documentation to the question it needs to answer.

Documentation has to be part of the prohibition. Sub-1% artificial stone is nearly impossible to tell apart from conventional quartz by eye, and once quartz is banned, there will be every incentive to relabel it.

The draft's answer is to require an SDS and an X-ray diffraction (XRD) lab analysis for every SKU, and as written that covers every material in the shop. XRD is the right test for the question if you're asking whether an artificial stone slab is above or below 1% crystalline silica. It's the wrong test for everything else. Whether granite or quartzite is allowed doesn't depend on its silica content. It depends on whether it's artificial stone, and XRD can't tell you that. For instance, a sample of quartzite may come back at 90% silica or more, a result that looks like a violation and says nothing about whether the slab fits 5204.1's definition of artificial stone, or if came out of the ground.

Under (g)(1)(C), material without the required analysis is treated as prohibited, and under subsection (f), cutting it is an imminent hazard. As I said in my previous comments, it would be absurd if a granite remnant from 2019 or a marble slab a customer brought in, lacking XRD testing data, gets a fabrication shop shut down.

For the materials 5204.1 already excludes from the definition of artificial stone, documentation should establish what the material is, not how much silica it contains. A supplier invoice that identifies porcelain as porcelain, or a natural stone slab by its type (granite, marble, quartzite), does that. For material without a paper trail (customer-supplied material, remnants, etc.), a signed declaration of inventory on hand as of the effective date, or a customer's written declaration for slabs they supply, should be enough.

Here's how that could work across materials a shop might have:

- **Artificial stone below 1%:** an SDS and a supplier invoice, backed by a lab analysis from the manufacturer or importer. Cal/OSHA should name the bulk test method and lab accreditation it will accept, since the methods in Appendix A are for air samples.
- **Natural stone and other excluded materials:** proof of what the material is, not a lab test. For natural stone, that's a supplier invoice or declaration naming the material type. For porcelain, sintered stone, terrazzo, and concrete, it's the manufacturer's data

sheet or SDS stating the material and binder. Suppliers making these declarations should face spot testing and penalties for mislabeling.

- **Material without a paper trail:** a one-time signed inventory declaration as of the effective date, or a customer's written declaration for slabs they supply.
- **Hold and verify instead of automatic shutdown:** if an inspector can't verify a slab, tag it and give the shop time to produce documentation or a test result. An OPU should apply only if the material proves prohibited or is cut before it's cleared.

California Surfaces recognizes that conventional high-silica quartz is on its way out in California. We've stopped stocking quartz and are moving our customers to alternative materials. But fabricators who make that change shouldn't face even more restrictive rules after making it. Keep the emergency focused on the ban the Board approved, and send the 5204 changes through regular rulemaking where they can be properly debated. Give fabricators a documentation system that fits the material in front of them, so shops that follow the rules can prove it and shops that don't get caught.

I also want to repeat a point from my September comments. Cal/OSHA Consultation's free on-site program has helped our shop, most recently this summer, and fabricators are going to need it more than ever. This rule will inevitably raise many questions, and consultation is well suited to answer them. I encourage the Division to make sure Consultation has the staff to meet that demand, and to get the word out that the program is free and separate from enforcement.

I'm happy to answer questions about any of this.

Sincerely,

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