Notification of permitted work with legacy engineered stone

Crystalline Silica

**Legacy engineered stone includes any engineered stone benchtop, panel, or slab that is already installed and, for the purposes of disposal, includes engineered stone stocks that were not installed prior to the prohibition.**

This form must be completed by a person conducting a business or undertaking ([PCBU](https://www.safeworkaustralia.gov.au/glossary)) and sent to [insert WHS Regulator] before carrying out, or directing or allowing a worker to carry out, any work that involves processing of legacy engineered stone.

**Processing**, in relation to legacy engineered stone, means using a power tool or other mechanical plant (e.g., a crusher) to crush, cut, grind, trim, sand, abrasive polish or drill the stone.

*If work with legacy engineered stone will be carried out in multiple states and/or territories, you must submit a notification to each Commonwealth, state and/or territory WHS regulator in relation to the work to be carried out in that jurisdiction. Refer to the relevant* [*WHS regulator*](https://www.safeworkaustralia.gov.au/law-and-regulation/whs-regulators-and-workers-compensation-authorities-contact-information) *to ensure you are using the correct notification form.*

For ongoing work with legacy engineered stone, this form must be submitted to [insert WHS Regulator] every 12 months from the date of the previous notification, or earlier if there is a change to the information previously provided.

**Penalties apply for failing to comply with the notification obligations.**

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| **Instructions for completing this form:**  **Section 1 and 2:** Read and understand your obligations as a PCBU in relation to **work with legacy engineered stone, including** [insert WHS Regulations and/or relevant webpage]**and** [insert guidance link]**about the engineered stone prohibition**  **Section 3:** Complete this section if notifying the WHS regulator for the first time  **Section 4:** Complete this section if re-notifying the WHS regulator  **Section 5:** Complete and sign the declaration  It is the responsibility of the PCBU to ensure the form is completed and submitted correctly. [insert any instructions on how to submit the form in your jurisdiction].  [insert WHS Regulator] **will not be issuing reminders to PCBUs to submit a notification or re-notification.**  WHS regulators will issue an acknowledgement of receipt but will not be assessing or approving submitted forms. |

Section 1 – Duties for notifying

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| Working with engineered stone can expose workers and other persons to respirable crystalline silica (RCS). Exposure to RCS can have serious health effects, including fatal lung disease.  For further information, visit Safe Work Australia’s website about [crystalline silica and silicosis](https://www.safeworkaustralia.gov.au/safety-topic/hazards/crystalline-silica-and-silicosis) |

**Prohibition on engineered stone benchtops, panels, and slabs (regulation 529D)**

It is an offence for a PCBU to carry out, or to direct or allow a worker to carry out, work that involves manufacturing, supplying, installing, or processing engineered stone benchtops, panels, or slabs.

**Permitted work with legacy engineered stone (regulation 529F)**

The engineered stone prohibition does not apply to work that involves the controlled processing of legacy engineered stone benchtops, panels and slabs if the work is carried out:

* to remove, repair or make minor modifications to installed engineered stone, or
* to dispose of engineered stone whether installed or not.

This type of work, referred to as ‘permitted work with legacy engineered stone’, may be carried out but must first be notified to the [insert WHS Regulator].

Note: There are also exceptions from the engineered stone prohibition for work involving the supply, processing or installation of engineered stone benchtops, panels and slabs where the work is for genuine research and analysis or to sample and identify engineered stone. This type of work may be carried out without notifying the WHS regulator, but any processing of the engineered stone must be controlled.

**Controlled processing (regulation 529A(1), 529B and 529C)**

A PCBU must not carry out, or direct or allow a worker to carry out, processing of legacy engineered stone (a CSS) unless the processing is controlled.

Processing refers to crushing, cutting, grinding, trimming, sanding, abrasive polishing, or drilling using power tools or other mechanical plant (regulation 529A(1)(a)). All processing of legacy engineered stone benchtops, panels or slabs must meet the criteria for ‘controlled’ processing in regulation 529B of [insert WHS Regulations].

The processing of legacy engineered stone is controlled if:

1. control measures to eliminate or minimise risks arising from the processing of the stone or product are implemented so far as is reasonably practicable; and
2. at least 1 of the following measures are used during the processing:
3. isolation of a person from dust exposure;
4. a fully enclosed operator cabin fitted with a high efficiency air filtration system;
5. an effective wet dust suppression method;
6. an effective on-tool dust extraction system;
7. an effective local exhaust ventilation (LEV) system;

and

1. a person still at risk of being exposed to RCS after 1 or more of the measures in paragraph (b) are used:
2. is provided with respiratory protective equipment (RPE); and
3. wears the RPE while the work is carried out.

If it is not reasonably practicable to implement at least one of the isolation or engineering measures in paragraph (b) above, the processing of a CSS may be controlled if a person who is at risk of being exposed to RCS during processing is:

* provided with appropriate respiratory protective equipment; and
* wears the respiratory protective equipment correctly while the work is carried out.

RPE is personal protective equipment (PPE) that is designed to prevent a person wearing the equipment from inhaling airborne contaminants, and complies with:

* AS/NZS 1716:2012 (Respiratory protective devices), and
* AS/NZS 1715:2009 (Selection, use and maintenance of respiratory protective equipment).

Under AS/NZS 1715:2009, the RPE must incorporate a particulate filter (P1, P2 or P3 - dependent on the type of RPE selected and the level of airborne contamination present). Where tight fitting RPE is used:

* the RPE needs to be successfully fit-tested to the wearer before use and annually thereafter, and
* there can be no facial hair where the mask seals to the face during fit testing or when wearing RPE.

A PCBU is required to provide workers with suitable and well-fitted RPE that is maintained so that it continues to minimise the risks of RCS to the worker. A PCBU must also provide workers with information, training and instruction in relation to the proper use and wearing of RPE as well as the storage and maintenance of RPE.

**Notification of work with legacy engineered stone (regulation 529G)**

A PCBU is required to notify [insert WHS regulator] that the PCBU proposes to carry out permitted work with legacy engineered stone in [insert state/territory]. Should a PCBU unknowingly carry out permitted work with legacy engineered stone, the PCBU must notify [insert WHS regulator] as soon as they become aware that the work was permitted work with legacy engineered stone.

Where work with legacy engineered stone commences prior to 1 July 2024 and is expected to continue after this date, the PCBU can notify [insert WHS regulator] on or before 1 July 2024, or as soon as practicable after 1 July 2024.

**Notification of change in information or work continuing beyond 12 months (regulations 529H and 529I)**

A PCBU must re-notify [insert WHS regulator] within 30 calendar days of the following occurring:

* The PCBU becomes aware of a change to the information provided in the previous notification. In this case, the re-notification must state and describe the information that has changed (e.g., an increase or decrease in the frequency and/or duration of the work, or a change in the type of work with legacy engineered stone). A re-notification is not required if the PCBU ceases to carry out work with legacy engineered stone.
* The 12-month anniversary of the most recent notification made to the WHS regulator, unless the PCBU has ceased to carry out work with legacy engineered stone.

[insert WHS regulator] must provide the PCBU with an acknowledgment of all notifications.

**Duty to keep a copy of the notice given under Part 8A.3 (regulation 529J)**

A PCBU must keep a copy of each notification for 5 years from the date the notice was given to [insert WHS regulator] and ensure that they are readily accessible and allow access to any person upon their request. A PCBU may wish to keep a copy of the acknowledgement of each notification from the [insert WHS regulator] together with the notification as evidence of when the notification was received by the regulator.

**Penalty**

Failure to notify [insert WHS regulator] is an offence under the [insert WHS Regulations] carrying a maximum penalty of [insert penalty for individual] for an individual or [insert penalty for body corporate]for a body corporate.

**Related guidance material**

For more information about the duties of PCBUs in relation to the notification requirements and permitted work with legacy engineered stone under the [insert WHS Regulations], please refer to the guidance on the prohibition of engineered stone benchtops, panels, and slabs, [link to be included once guidance is published].

Section 2 – Additional duties when working with a CSS (including legacy engineered stone)

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| From 1 September 2024, stronger regulations apply when working with a **crystalline silica substance (CSS).** Legacy engineered stone isa **CSS** because it contains at least 1% crystalline silica.  Therefore, when working with legacy engineered stone, a PCBU is required to understand and comply with the additional duties summarised below. These duties are fully explained in [insert Working with crystalline silica substances guidance link], including in relation to general WHS duties. |

**Identifying processing of a CSS that is high risk (regulation 529CA)**

You must assess whether the processing of the legacy engineered stone is high risk and document this in writing. If you are unable to determine if the processing is high risk, you must assume it is high risk until you are able to determine otherwise, through a subsequent assessment.

**Silica risk control plan required for processing of a CSS that is a high risk (regulation 529CB)**

If you have assessed the processing of a CSS, or a combination of such processes, as being high risk, you must develop a silica risk control plan covering those processing tasks. You must make the plan available to all workers generally and provide it to all workers before they commence the relevant processing of a CSS. Further, once a silica risk control plan is in place, you must ensure any processing of a CSS that is high risk is carried out in accordance with the plan.

**Duty to train workers about the risk of crystalline silica (regulation 529CD)**

You must provide crystalline silica training to any worker you reasonably believe may be involved in processing of a CSS that is high risk or be at risk of exposure to RCS because of processing of a CSS that is high risk at your workplace.

Crystalline silica training must be nationally accredited training, or another form of training approved by the WHS regulator, and must cover:

* the health risks associated with exposure to RCS, and
* the need for, and proper use of, any risk control measures required by WHS laws.

**Monitoring in relation to processing of a CSS that is high risk (regulation 529CE)**

For each processing of a CSS that is high risk at the workplace, a PCBU must:

* undertake air monitoring for respirable crystalline silica in accordance with regulation 50, and
* provide health monitoring for all workers carrying out the processing of a CSS that is high risk in accordance with Division 6 of Part 7.1 of the [insert WHS Regulations].

In addition, you must provide air monitoring results to the regulator if the airborne concentration of RCS has exceeded the WES for RCS. You must report the result to the WHS regulator as soon as reasonably practicable and no more than 14 days from the date the result was reported to you.

Section 3 – Complete this section to make an initial notification

If you have already made an initial notification and wish to re-notify the WHS Regulator, move to Section 4.

This notification was prepared on [\_\_/\_\_/\_\_].

The estimated date the PCBU will commence work with legacy engineered stone [\_\_/\_\_/\_\_].

**OR** the date the PCBU became aware the work was permitted work with legacy engineered stone [\_\_/\_\_/\_\_].

Person conducting a business or undertaking (PCBU)

**PCBU name:** Click here to enter text. **PCBU Tel:** Click here to enter text.

**PCBU email:** Click here to enter text. **ABN:** Click here to enter text.

**Head office address:** Click here to enter text.

When responding to the below questions, provide your best estimate or approximation for work to be conducted over a 12-month period, and describe any anticipated fluctuations during the 12-month period.

Type of work PCBU intends to undertake with legacy engineered stone (tick all relevant boxes)

Removal  Repair  Minor modification  Disposal

**Will this type of work involve processing using power tools or mechanical plant to crush, cut, grind, trim, sand, abrasive polish or drill the legacy engineered stone?**  Yes  No\*

\*Notification is only required if you have responded ‘yes’ to the above question.

**Is the processing of legacy engineered stone high risk\*?**  Yes  No

\*Under the [insert WHS Regulations], an assessment is required to determine if your processing of a CSS is high risk. If the processing is determined as high risk, you must comply with additional duties applying to the processing of a CSS that is high risk. Please refer to [insert Working with crystalline silica substances guidance link] for more information.

**Further description of the type of work, processing and equipment involved:**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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Likely frequency of work with legacy engineered stone (tick all relevant boxes)

**Over a 12-month period, what is your best estimate for:**

1. the number of engineered stone slabs, panels and benchtops your entity will remove, repair, modify, or dispose Click here to enter text.
2. **the number of workers who will carry out work with legacy engineered stone** Click here to enter text.
3. **the frequency a worker will be processing legacy engineered stone:**

|  |  |
| --- | --- |
| Daily  Weekly  Monthly | Every six months  Yearly  Other (specify): Click here to enter text. |

**Provide further description of the frequency of work (If you know your frequency is higher in some periods of the year compared to others, please do your best to describe it below):**

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Likely duration of work with legacy engineered stone (tick all relevant boxes)

**What is the duration a worker will be processing legacy engineered stone?**

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| --- | --- |
| 4-8 hours a day  2-4 hours a day  30 minutes - 2 hours a day | < 30 minutes a day  Other (specify): Click here to enter text. |

**Provide further** **description of the duration of work (If you know your duration varies for certain periods e.g. different durations for days of the week, month or year, please do your best to describe it below):**

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Section 4 – Complete this section if re-notifying the WHS regulator

**Reason for re-notifying?**

12-month anniversary of previous notification.

Change in information from previous notification.

**Previous notification attached?**  Yes **Date of previous notification** [\_\_/\_\_/\_\_].

This notification was prepared on [\_\_/\_\_/\_\_].

The date you became aware of the change in work with legacy engineered stone [\_\_/\_\_/\_\_].

Person conducting a business or undertaking (PCBU)

**PCBU name:** Click here to enter text. **PCBU Tel:** Click here to enter text.

**PCBU email:** Click here to enter text. **ABN:** Click here to enter text.

**Head office address:** Click here to enter text.

When responding to the below questions, describe the change since the previous notification, and provide your best estimate or approximation for work to be conducted over a 12-month period from the date of this notification*.*

Complete if there has been a change to the type of work conducted (tick all relevant boxes)

**Has there been a change in the type of work since the previous notification?**  Yes  No

**Tick all type of work that is currently expected to be conducted:**

Removal  Repair  Minor modification  Disposal

**Will this type of work involve processing using power tools or mechanical plant to crush, cut, grind, trim, sand, abrasive polish or drill the legacy engineered stone?  Yes  No\***

\*Notification is only required if you have responded ‘yes’ to the above question.

**Is the processing of legacy engineered stone high risk\*?**  Yes  No\*

\*Under the WHS Regulations, an assessment is required to determine if your processing of a CSS is high risk. If the processing is determined as high risk, you must comply with additional duties applying to the processing of a CSS that is high risk. Please refer to [insert Working with crystalline silica substances guidance link] for more information.

**Describe the change to the type of work, processing and equipment conducted since the previous notification:**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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****Complete if there has been a change to the**** frequency of work conducted (tick all relevant boxes)

**Has there been a change in the frequency of work since the previous notification?**  Yes  No

**If yes, over a 12-month period, what is your best estimate for:**

1. the number of engineered stone slabs, panels and benchtops your entity will remove, repair, modify, or dispose Click here to enter text.
2. **the number of workers who will carry out work with legacy engineered stone** Click here to enter text.
3. **the frequency a worker will be processing legacy engineered stone:**

|  |  |
| --- | --- |
| Daily  Weekly  Monthly | Every six months  Yearly  Other (specify): Click here to enter text. |

**Describe the change to the frequency of work since the previous notification:**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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Complete if there has been a change to the duration of work conducted (tick all relevant boxes)

**Has there been a change in the duration of work since the previous notification?**  Yes  No

**If yes, what is the duration a worker will be working with legacy engineered stone?**

|  |  |
| --- | --- |
| 4-8 hours a day  2-4 hours a day  30 minutes - 2 hours a day | < 30 minutes a day  Other (specify): Click here to enter text. |

**Describe the change in duration of work since the previous notification:**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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Section 5 – Declaration

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| I, [FIRST AND LAST NAME] hereby declare that:   * I have authority to complete and submit this application on behalf of the PCBU. * The information in this form is true and correct to the best of my knowledge. * The PCBU understands that, when carrying out, or directing or allowing a worker to carry out, work with legacy engineered stone, it has duties under WHS laws, including those described in sections 1 and 2 of this form.   Position title \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_    Signature \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_    Date: [\_\_/\_\_/\_\_]  **WHS regulators have powers to investigate and enforce WHS laws. The WHS regulator may rely on those powers to obtain further information and may attend your workplace(s) to assess compliance with the relevant legislation related to permitted work.** |