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) 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 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.

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

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.

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)

Relevant to the notification framework*, 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.

*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 does not have to be notified to the WHS regulator but any processing of the engineered stone must be controlled.

Controlled processing (regulation 529B)

Processing refers to crushing, cutting, grinding, trimming, sanding, abrasive polishing, and drilling using power tools or other mechanical plant. All processing of engineered stone benchtops, panels or slabs must meet the criteria for 'controlled' processing in regulation 529B of *[insert WHS Regulations].*

For processing to be controlled, there must be:

- 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
- use of at least one of the following systems:
  - a water delivery system that supplies a continuous feed of water over the stone being processed to suppress the generation of dust
  - an on-tool dust extraction system
  - a local exhaust ventilation (LEV) system, and
- each person who is at risk of exposure to RCS from processing the product is provided with respiratory protective equipment (RPE) and wears the RPE while work is being 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 and replaced 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.

The definition of controlled processing will change on 1 September 2024, please refer to *[insert WHS regulator]* to stay up to date with the current regulations.

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 – Other duties of a PCBU

Primary WHS duty (section 19)

A PCBU has a primary duty of care under section 19 of the WHS Act to ensure, so far as reasonably practicable, the health and safety of workers while they are at work in the business or undertaking and others who may be affected by the carrying out of work, such as visitors.

To comply with this duty, a PCBU may need to implement control measures to manage risks to health and safety. In relation to any permitted processing of legacy engineered stone, these control measures include those measures that a PCBU must implement in accordance with regulation 529B to ensure the processing of the stone is controlled (refer to the guidance on controlled processing above).

Maintenance and review of control measures (regulation 37 and 38)

All control measures must be maintained so they remain effective. This includes ensuring control measures are fit for purpose, suitable for the nature and duration of the work, and installed, set up and used correctly (regulation 37).
A PCBU must review and revise the control measures they have put in place to maintain, so far as reasonably practicable, a work environment that is without risks to health and safety (regulation 38).

A PCBU will also likely need air monitoring and health monitoring programs to confirm the control measures are working and workers and others at the workplace are protected.
Refer to Safe Work Australia's website for further information and examples of control measures that could be implemented when working with legacy engineered stone.

Provision of information, training and instruction (regulation 39)

Under regulation 39 of the WHS Regulations, a PCBU must ensure that information, training, and instruction is provided to a worker in a way that is readily understandable and which is suitable and adequate having regard to:

- the nature of the work carried out by the worker,
- the nature of the risks associated with the work at the time the information, training or instruction is provided, and
- the control measures implemented.

Workplace exposure standard for respirable crystalline silica (regulation 49)

The workplace exposure standard (WES) for RCS is 0.05 mg/m^3 (eight-hour time weighted average).

In addition to complying with Part 3.1 of the WHS Regulations in relation to the management of risks to health and safety from RCS, a PCBU must ensure that no person at the workplace is exposed to RCS at a concentration that exceeds the WES.

From 1 December 2026, the WES will renamed as workplace exposure limits (WEL). Please refer to Workplace exposure limits for airborne contaminants for more information.

Air monitoring (regulation 50)

A PCBU must ensure that air monitoring is carried out to determine the airborne concentration of RCS in the workplace where:

- the PCBU is not certain on reasonable grounds whether the airborne concentration levels of RCS exceed the WES, or
- monitoring is necessary to determine whether there is a risk to health.

Health monitoring (regulation 368(a))

A PCBU must provide health monitoring for a worker if the worker is carrying out ongoing work using, handling, generating or storing hazardous chemicals including crystalline silica and there is a significant risk to the worker's health because of exposure to that chemical.

The minimum health monitoring requirements for crystalline silica are:

- demographic, medical and occupational history
- records of personal exposure

- standardised respiratory questionnaire to be completed
- standardised respiratory function tests, for example, FEV_1, FVC and FEV_1/FVC, and
- chest X-Ray full PA view.

You can also find further information on what you must do to keep your workers safe from the risks of crystalline silica in the Health monitoring for crystalline silica guidance materials.

Your responsibilities as a PCBU will change from 1 September 2024 when new regulations for crystalline silica substances (CSS) containing at least 1% crystalline silica (including engineered stone) come into effect.
Visit Safe Work Australia's website regularly to ensure you have the latest available guidance.

The new regulations will require a PCBU to:

1. ensure any processing of CSS, including legacy engineered stone, is controlled
2. conduct a risk assessment to identify if the processing of a CSS is high risk and, if so, comply with specific requirements for high risk processing, including to:
    - develop a Silica Risk Control Plan that identifies the risks associated with high risk processing carried out by the PCBU and measures to control those risks
    - provide training for workers or others at the workplace likely to be at risk of exposure to RCS from the processing
    - undertake air monitoring for RCS and health monitoring for workers carrying out high risk processing, and
    - if the airborne concentration of RCS exceeds the workplace exposure standard, provide air monitoring results to the regulator as soon as reasonably practicable and no more than 14 days from the time that the air monitoring result was reported to the PCBU.

The commencement of these amendments will not change a PCBU's notification requirements in relation to permitted work with legacy engineered stone. However, a PCBU must comply with the new regulations once they commence.

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.

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

_____

_____

_____

_____

_____

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):

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

What is the duration a worker will be processing 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.

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):

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.

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

_____

_____

_____

_____

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 ☐ Every six months

☐ Weekly ☐ Yearly

☐ Monthly ☐ Other (specify): Click here to enter text.

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

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:

Section 5 – Declaration

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.