



Australian Government

Comcare

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, any 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 Comcare 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 work health and safety (WHS) regulator in relation to the work to be carried out in that jurisdiction.

For Commonwealth PCBUs, you must notify Comcare. Where the workplace is shared by a Commonwealth PCBU and a state or territory-based contractor, the Commonwealth PCBU must notify Comcare, and the contractor must notify the relevant state or territory-based WHS regulator. 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 Comcare every 12 months from the date of the previous notification, or whenever there is a change to the information previously provided.

Penalties apply for failing to comply with the notification obligations.

PRIVACY AND PERSONAL INFORMATION

Comcare will only collect, use or disclose personal information in accordance with the *Privacy Act 1988* (Cth) and if it is reasonably necessary for, or directly related to, one or more of our functions, powers and/or activities. Comcare is the Commonwealth agency authorised by the *Work Health and Safety Act 2011* (WHS Act) to collect personal information relevant to the exercise of functions and powers under the WHS Act, the Work Health and Safety Regulations (WHS Regulations) and the administration and evaluation of Comcare's WHS programs. Any personal information collected in this form will be used for those purposes. In exercising its functions and powers, Comcare may disclose personal information, subject to confidentiality of information provisions under the WHS Act, to the following bodies and agencies, including but not limited to:

- > Comcare's internal and external legal advisers
- > the Safety, Rehabilitation and Compensation Commission
- > a court or tribunal
- > state or territory work health and safety regulatory agencies
- > personnel engaged by Comcare to conduct research related activities
- > enforcement agencies or bodies
- > state and territory Coroners
- > Commonwealth, state or territory industry regulators
- > any other person assisting Comcare in the performance of its functions or exercise of its powers, including contractors and consultants
- > any other person where there is an obligation under law to do so (for example but not limited to, responding to the direction of a court to produce documentation).

If Comcare does not collect personal information from you for the purposes of its legislated functions or related functions, we may not be able to perform our functions or activities. For further information on how Comcare handles personal information, please read our Privacy Policy on our website. If you require further information or wish to request a change to your personal information or to make a complaint, please email privacy@comcare.gov.au.

CONFIDENTIALITY OF INFORMATION

Section 271 of the WHS Act imposes a strict confidentiality requirement over information or documents obtained in the exercise of any power or function under the WHS Act. This includes where Comcare is requested to assist in resolving a disputed WHS matter. Comcare will only disclose, give access to, or use information or documents obtained from this report in accordance with its confidentiality of information obligations under section 271 of the WHS Act.

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 the [WHS Regulations](#) and [Safe Work Australia guidance](#) 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. Notification forms completed by a Commonwealth PCBU should be emailed to notify@comcare.gov.au.

Comcare will not issue reminders to PCBUs to submit a notification or re-notification.

Comcare will issue an acknowledgement of receipt but will not assess or approve submitted forms. It is recommended that you keep a copy of the acknowledgement of receipt with your completed form as evidence of submission.

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)

The engineered stone prohibition does not apply to work that involves the controlled processing of legacy engineered stone benchtops, panels and slabs (permitted work) 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 engineered stone', may be carried out but must first be notified to Comcare.

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 but does not have to be notified to the WHS regulator. Any processing of 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 crystalline silica substance (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 the WHS Regulations.

The processing of legacy engineered stone is controlled if:

- a) 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
- b) at least one of the following measures are used during the processing:
 - i) 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 dust extraction system
 - v) an effective local exhaust ventilation (LEV) system, and
- c) a person still at risk of being exposed to RCS after one or more of the measures in paragraph (b) are used:
 - i) is provided with respiratory protective equipment (RPE), and
 - ii) wears the RPE while the work is carried out.

If it is not reasonably practicable to implement at least one of the isolation 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 RPE, and
- > wears the RPE correctly while the work is carried out.

RPE is personal protective equipment (PPE) that is designed to prevent a person who is 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, depending 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, and must provide for the proper storage and maintenance of RPE.

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

A PCBU is required to notify Comcare that the PCBU proposes to carry out permitted work with legacy engineered stone in the Commonwealth jurisdiction. In a workplace that is shared by a Commonwealth entity and one or more state or territory contractors, the Commonwealth entity must notify Comcare, and the contractor(s) must notify the relevant state or territory WHS regulator. Should a PCBU unknowingly carry out permitted work with legacy engineered stone, the PCBU must notify Comcare 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 should notify Comcare 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 Comcare 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.

Comcare must provide the PCBU with an acknowledgment of receipt 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 Comcare 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 receipt of each notification from Comcare together with the notification itself as evidence of when the notification was received by the regulator.

Penalty

Failure to notify Comcare is an offence under the WHS Regulations carrying a maximum tier G monetary penalty.

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 WHS Regulations, please refer to the guidance on the prohibition of engineered stone benchtops, panels, and slabs, available on the Safe Work Australia webpage – [About the ban on engineered stone | Safe Work Australia](#).

SECTION 2 – ADDITIONAL 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 high risk (regulations 529CB and 529CC)

If you have assessed the processing of a CSS, or a combination of processing of CSSs, 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 control measures required by the 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 WHS Regulations.

In addition, you must provide air monitoring results to the regulator if the airborne concentration of RCS has exceeded the WES9 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 Comcare, move to Section 4.

Date this notification was prepared .

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 PCBU Tel
PCBU email ABN
Head office address

Site address(s) where work with legacy engineered stone will be conducted:

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.

Who will be carrying out work with engineered stone (tick all relevant boxes)

- Commonwealth entity
 Non-Commonwealth licensee
 Contractor (Commonwealth)
 Contractor (state or territory-based)

If the workplace is shared by a Commonwealth entity or Commonwealth contractor and one or more state or territory-based contractors, the Commonwealth entity or contractor must notify Comcare using this form. State or territory-based contractors must notify the relevant state or territory-based WHS regulator.

State or territory contractors should refer to the relevant [WHS regulator](#) to ensure they are using the correct notification form.

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.

Has the processing of legacy engineered stone been assessed as high risk*? Yes No*

Is the processing of legacy engineered stone assumed to be high risk? Yes No*

*Under the WHS Regulations, a risk assessment is required to determine if your processing is high risk. 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. 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 [Working with crystalline silica substances: Guidance for PCBUs](#) for more information.

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 of?
2. the number of workers who will carry out work with legacy engineered stone?
3. the frequency a worker will be processing legacy engineered stone?
 Daily Every six months
 Weekly Yearly
 Monthly Other (specify)

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 < 30 minutes a day
 2–4 hours a day
 30 minutes – 2 hours a day Other (specify)

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

Date this notification was prepared

The date you became aware of the change in work with legacy engineered stone

Person conducting a business or undertaking (PCBU)

PCBU name PCBU tel
PCBU email ABN/ACN
Head office address

Site address(es) where work with legacy engineered stone will be conducted:

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

Who will be carrying out work with engineered stone (tick all relevant boxes)

- Commonwealth entity
- Non-Commonwealth licensee
- Contractor (Commonwealth)
- Contractor (state or territory-based)

If the workplace is shared by a Commonwealth entity or Commonwealth contractor and one or more state or territory-based contractors, the Commonwealth entity or contractor must notify Comcare using this form. State or territory-based contractors must notify the relevant state or territory-based WHS regulator.

State or territory contractors should refer to the relevant [WHS regulator](#) to ensure they are using the correct notification form.

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.

Has the processing of legacy engineered stone been assessed as high risk*? Yes No*

Is the processing of legacy engineered stone assumed to be high risk? Yes No*

*Under the WHS Regulations, a risk assessment is required to determine if your processing is high risk. 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. 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 [Working with crystalline silica substances: Guidance for PCBUs](#) for more information.

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 of?
2. the number of workers who will carry out work with legacy engineered stone?
3. the frequency a worker will be processing legacy engineered stone?
 Daily Every six months
 Weekly Yearly
 Monthly Other (specify)

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 < 30 minutes a day
 2–4 hours a day
 30 minutes – 2 hours a day Other (specify)

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

SECTION 5 – DECLARATION

I, 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, including Comcare, have powers to investigate and enforce WHS laws. Comcare 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.