



Australian
BORDER FORCE

Australian Customs Notice No. 2024/45

New Import Control on Engineered Stone

From 1 January 2025, engineered stone benchtops, panels and slabs will become prohibited imports under new regulation 5M of the *Customs (Prohibited Imports) Regulations 1956* (Prohibited Imports Regulations). The import prohibition complements the domestic ban on the supply, manufacture, processing and installation of engineered stone under the *Work Health and Safety Regulations 2011* (Cth) (the WHS Regulations).

Engineered Stone

The importation into Australia of engineered stone benchtops, panels and slabs containing at least 1% crystalline silica is prohibited without a valid permit, confirmation of end use or exemption. Engineered stone in the Prohibited Import Regulations has the same meaning as in the WHS Regulations, as set out below.

Engineered Stone:

- (a) means a *Crystalline Silica Substance* that:
 - i) is an artificial product; and
 - ii) is created by combining natural stone materials with other chemical constituents such as water, resins or pigments; and
 - iii) becomes hardened; but
- (b) does not include the following:
 - i) concrete and cement products;
 - ii) bricks, pavers and other similar blocks;
 - iii) ceramic wall and floor tiles;
 - iv) grout, mortar and render;
 - v) plasterboard;
 - vi) porcelain products;
 - vii) sintered stone;
 - viii) roof tiles.

Applying the definition of *engineered stone* from the WHS Regulations ensures alignment between the engineered stone products banned under the domestic supply, manufacture, processing and installation prohibition, and those captured under the Prohibited Import Regulations.

The WHS Regulations also contain definitions of *crystalline silica substance* and *crystalline silica*, as follows:

Crystalline Silica Substance means material that contains at least 1% crystalline silica, determined as a weight/weight (w/w) concentration.

Crystalline silica:

- (a) means crystalline polymorphs of silica; and
- (b) includes the following substances:
 - i) cristobalite;
 - ii) quartz;
 - iii) tridymite;
 - iv) tripoli.

Importers

Under the new control, the importation of engineered stone in the form of benchtops, panels or slabs containing more than 1% crystalline silica is prohibited unless any of the following conditions apply:

- (a) the WHS Minister or an authorised person¹ has granted permission for the importation in writing, and a copy of the permission is produced to a Collector at or before the time of importation. They may grant the permission if they are satisfied that the importation is for one of the following purposes:
 - i) for genuine research and analysis; or
 - ii) to sample and identify engineered stone; or
 - iii) there are exceptional circumstances that justify the importation, or;
- (b) a confirmation from Comcare, or an authority of a State or Territory² is in force stating that the proposed use of the engineered stone is for genuine research and analysis, or to sample engineered stone, and a copy of the permission is produced to a Collector at or before the time of importation, or:
- (c) the importation is of a kind of engineered stone benchtops, panels and slabs that is the subject of an exemption granted by a work health and safety regulator under the WHS Regulations, or a corresponding WHS law.

Exceptional circumstances for granting an import permission for the lawful importation of engineered stone benchtops, panels or slabs will be considered in line with the Australian Government's intention to prevent these products entering Australia.

The act of applying for an import permit, confirmation of end use, or exemption is not a guarantee that it will be granted. Goods must not be shipped until one of the forms of approval is obtained. A copy of the permit, confirmation of end use or exemption must be produced to the ABF if requested to do so.

¹ An authorised person may be either the Chief Executive Officer of the Asbestos and Silica Safety and Eradication Agency; or a person who holds, or is acting in, a position in the Department of Employment and Workplace Relations, that is equivalent to or higher than a position occupied by an SES employee. The Work Health and Safety Minister may choose to authorise these persons, but is not required to exercise this power.

² The authority is an authority of the State or Territory Work Health and Safety Regulator, in which the goods are to be used for that purpose.

Due Diligence

When a licensed customs broker receives a declaration stating the goods are not engineered stone, the customs broker is obliged to ensure they obtain reliable and sufficient documentary evidence to correctly make the declaration and to provide to the ABF if requested.

A declaration on its own, whether from the manufacturer, importer or third-party supplier is not considered evidence.

It should not be assumed that engineered stone manufactured overseas and labelled crystalline silica free contains less than 1% of crystalline silica. Goods may be labelled engineered stone “crystalline silica free” even when the content of crystalline silica exceeds 1%.

In cases where it is unknown if the goods exceed the 1% silica content, testing should be conducted prior to importation. Documentation verifying the composition of the goods should be included in the commercial documentation for lodgement of the import declaration.

The ABF will need to see evidence that links the sample tested and testing certificate with the goods being imported, i.e. the samples collected must be from the batch being imported. Written evidence of the sampling process, photographs and accurate records of decisions (what was and what was not sampled and why) will enhance assurances provided to the ABF that the goods are not engineered stone.

If the ABF suspects the consignment contains prohibited engineered stone, the importer will be provided the opportunity to have the goods tested at their expense, or re-exported.

Sampling, Testing and Assurances

A permit or a confirmation of end use is required if an engineered stone benchtop, panel or slab is to be imported for the purposes of sampling or testing domestically. However, a permit, confirmation of end use or exemption is not required for *samples* being brought in for testing that have been taken from a benchtop, panel or slab. A laboratory does not require the full benchtop, panel or slab to be able to conduct appropriate testing.

If sampling is being undertaken with the intention of importing a shipment of benchtops, panels or slabs (i.e. identifying whether the benchtop, panels or slabs constitute engineered stone), the benchtops, panels, slabs or samples being imported must be from the actual shipment to be imported.

We recommend that each piece of stone contained in a consignment of samples for testing be no larger than 250mm by 250mm by 40mm. The associated cargo report should describe the goods as “engineered stone samples for testing” or “samples of possible engineered stone”.

The consignee and consignor details for samples for testing should clearly indicate the importer and supplier, not freight forwarder or logistic provider.

Importers should be aware that a new community protection question will be generated as part of the import declaration process, for the purpose of declaring engineered stone. In cases where a consignment is confirmed as containing prohibited engineered stone, the importer must produce copies of any permits, confirmations of end use or exemptions from the relevant authorities as above. These documents must be produced to a Collector on request at or before the time of the importation.

Where assurances are insufficient, the ABF will provide an opportunity for the importer to undertake testing or re-export. These options will incur additional cost to the importer for testing, storage and transport of the goods under customs control.

Engineered stone being imported through a permission, confirmation of end use or exemption of a value of less than \$1000 AUD must be entered on a Long Form Self Assessed Clearance Declaration (SAC). Goods descriptions must include reference to the material composition and type of good, i.e. Engineered Stone Benchtop. The description should not include: tariff descriptions, brand names, product codes, generic terms or foreign references. Insufficient information on cargo reports or import declarations may lead to goods being held at the border.

In cases where the importer believes their goods may be considered at risk of containing prohibited engineered stone benchtops, panels or slabs, testing of the goods should be conducted prior to importation, with documentation verifying the composition of the goods included with the import documentation.

If this does not occur, and the ABF suspects that the consignment contains prohibited engineered stone, the importer will be directed to have the goods tested at their cost before they can be released.

For the ABF to be confident that the goods are not prohibited engineered stone, testing of goods must be carried out by a laboratory using suitable analytical means, such as petrographic analysis and x-ray diffraction, and should be carried out by a laboratory accredited by the National Association of Testing Authorities (NATA), or similar. Additionally, sampling must be conducted by a competent person³

Details of NATA accredited laboratories are available at the [NATA website](#).

Further information

For the new regulation 5M, please refer to the legislation, including the explanatory statement:

- [Customs \(Prohibited Imports\) Amendment \(Engineered Stone\) Regulations 2024](#).

The ABF prohibited goods webpage will be updated to reflect the changes once the new control comes into effect at [List of prohibited items](#).

Information on the Australian Government prohibition on the supply, manufacture, processing and installation of engineered stone, can be found at:

- [Import Ban On Engineered Stone | The Office of Impact Analysis](#)
- [Prohibition on the use of engineered stone - Department of Employment and Workplace Relations, Australian Government \(dewr.gov.au\)](#); or
- [Engineered stone ban | Safe Work Australia](#).

[signed]
Alex May
A/g Assistant Secretary
Customs and Trade Policy Branch
Strategy and Policy Division
17 December 2024

³ As per the *Work Health and Safety Regulations 2011* a competent person is “a person who has acquired through training, qualification or experience, the knowledge and skills to carry out the tasks”.