

CONSTRUCTION INDUSTRY SAFETY COALITION

OSHA Crystalline Silica Rulemaking

About the Construction Industry Safety Coalition:

- The Construction Industry Safety Coalition is comprised of a number of industry trade associations whose members represent hundreds of thousands of employers and millions of workers in all facets of construction—from home building, to commercial and road construction, to heavy industrial production, to specialty trade contractors and material suppliers.
- The coalition was formed so the construction industry could respond to OSHA's proposed new crystalline silica rule with one voice.
- More than 85 percent of the employers affected by OSHA's crystalline silica rulemaking are involved in construction or construction-related activities.
- A core mission of the coalition is to promote healthy and safe jobsites in our industry. Members are eager to provide OSHA with thoughtful, workable, and data-driven feedback.

What Is Crystalline Silica?

- Silica is one of the most abundant substances on earth. It is most commonly found as sand or Quartz. Silica is ubiquitous on construction sites by virtue of its presence in many commonly used construction materials including: concrete, bricks, rocks, and stones.
- Construction activities that can generate/spread silica dust include but may not be limited to: jackhammering, grinding, tuckpointing, milling, rock crushing, drywall finishing, earthmoving, sawing, and drilling.

OSHA's Current Requirements:

- Silica is measured by Permissible Exposure Limit (PEL), which is the maximum amount of silica to which a worker may be exposed to during an 8-hour shift of a 40-hour week.
- OSHA's PEL for silica exposure in construction is 250 micrograms per cubic meter of air. General industry's PEL is set at 100 micrograms per cubic meter of air.
- In construction, employers are required to ensure that employees are not exposed to silica levels above the PEL by using administrative or engineering controls. However, protective equipment (e.g., respirators) or other protective measures can be used to keep workers' exposure below the PEL whenever implementing controls are not feasible.

OSHA's Proposed Rulemaking Includes:

- A significant reduction of the PEL level (when control measures must be taken) down to 50 micrograms per cubic meter of air across all industries.
- The introduction of a new "action level" (where constant monitoring must begin) of 25 micrograms per cubic meter of air.
- Detailed requirements to use dust controls for specific construction operations.
- A requirement to provide respirators to workers when dust controls prove ineffective.
- The introduction of "regulated areas" where exposures may be above the PEL and worker access to these areas is controlled.
- Training requirements for workers covering operations that result in silica exposure and ways to limit exposure.
- A requirement to provide medical exams for workers and maintain their records for 30+ years.

Concerns with OSHA's Proposed Rule:

- OSHA's proposed crystalline silica rule is potentially the most far-reaching regulatory initiative proposed by OSHA for the construction industry.
- OSHA has not met its burden of demonstrating that the proposal is technologically and economically feasible.
- In addition to the significantly decreased PEL, OSHA's proposal prescribes control methods that contradict existing safety practices, raising concerns that the agency did not adequately consider unique factors associated with the construction industry. For example, not only are tasks and activities highly variable and changing constantly as projects progress, but workers themselves frequently move among jobs and even employers.
- OSHA has not explained how a drastically lower PEL/action level will effectively reduce the number of silica-related illnesses and deaths. The agency itself has admitted a failure to properly enforce existing standards, while the CDC has reported a 93 percent drop in silica-related deaths between 1968 and 2007.
- OSHA estimates the rule will result in approximately \$511 million in costs to the industry while generating \$3-5 billion in benefits. This stands in contrast to industry studies that show OSHA has underestimated the cost of the proposed rule by approximately a factor of six. We now estimate a cost to the industry of over \$3 billion

per year, but this figure will probably increase as we work to fix more of OSHA's errors in understanding how construction work is done.

- OSHA has omitted 1.5 million workers in the construction industry who routinely perform dusty tasks with silica-containing materials from its analysis of the economic costs and impacts of the proposed rule. Together, the additional occupations increase OSHA's base estimate of the affected construction workforce by nearly 50 percent.
- The coalition has serious concerns that the construction industry will be saddled with onerous new requirements at a time when most segments of the industry have not yet recovered from the economic downturn. OSHA's proposed silica standard may substantially alter the industry's competitive structure.
- The Construction Industry Safety Coalition is asking OSHA to withdraw its proposed rule until it can put forth a proposal that addresses the concerns set forth in our comments.

Rulemaking Timeline:

- Silica has been listed on OSHA's regulatory agenda for more than a decade.
- A SBREFA panel was held in 2003.
- A proposal went to OMB in February 2011.
- The proposed new rule was announced on August 23, 2013.
- The proposed new rule was published in the Federal Register on Sept. 12, 2013. [at 78 Fed. Reg. 56274]
- OSHA's deadline to submit comments on the proposed new rule was Feb. 11, 2014. [Docket No. OSHA-2010-0034].
- Public hearings on the proposed new rule began on Tuesday, March 18, 2014 and concluded on Friday, April 4, 2014.