

LEGAL UPDATES

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OSHA Issues Final Rule on Silica Exposure

On March 25, 2016, the U.S. Occupational Safety and Health Administration (OSHA) published its final silica rule in the Federal Register. The rule, which significantly reduces the permissible exposure limit (PEL) for respirable crystalline silica on job sites, will take effect on June 23, 2016.

Key Provisions

The final rule, Occupational Exposure to Respirable Crystalline Silica (Docket Number OSHA-2010-0034), also is designed to protect employees from exposure to silica dust. It includes provisions for assessing and controlling exposure, respiratory protection, medical surveillance, hazard communication and recordkeeping.

The final rule:

Reduces the PEL to 50 micrograms of respirable crystalline silica per cubic meter of air (50 $\mu\text{g}/\text{m}^3$) as an eight-hour time-weighted average in all industries covered by the rule and imposes an even lower 25 $\mu\text{g}/\text{m}^3$ action level. (The new PEL is approximately half the current general industry PEL.)

Requires employers to use engineering controls (such as water or ventilation) to limit worker exposure to silica dust, provide respirators when engineering controls cannot adequately limit exposure, limit worker access to high exposure areas, develop a written exposure control plan, and train workers on silica risks and how to limit exposure.

Requires employers to provide medical exams to monitor highly exposed workers and give workers information regarding their lung health.

Compliance Schedule

The final rule is issued as two separate standards, one for general industry and maritime (including hydraulic fracturing) and one for construction. After both standards take effect on June 23, 2016, industries have one to five years to comply with most requirements, based on the following schedule:

Construction: June 23, 2017

General industry and maritime: June 23, 2018

Hydraulic fracturing: June 23, 2018, for all provisions except engineering controls, which has a compliance date of June 23, 2021.

What This Means to You

Under the new standards, employers will be expected to cut worker exposures in half in general industry, including hydraulic fracturing, and by five times in the construction field by the applicable deadlines. Industry strongly opposed the new PEL, contending it was unnecessary to protect workers, unfeasible in light of currently available technology and unsupported by scientific evidence. In some industries covered by the rule, it is not clear that technology currently exists to allow employers to meet the new PEL within the deadlines. As a result, an industry challenge to the final rule is likely. If such a challenge is filed, the compliance schedule may be stayed by the court that considers the challenge.

Contact Us

Husch Blackwell's Safety & Health attorneys routinely advise companies on OSHA issues. For more information on how the new silica rule will affect your business, please contact Brad Hiles or Amy Wachs.