

Amended OSHA Silica Standard: Thirty Day Enforcement Phase-In Memorandum



Walter Wright, Jr.
wwright@mwlaw.com
(501) 688.8839

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The United States Occupational Safety and Health Administration (“OSHA”) previously published a March 25, 2016, Federal Register Notice stating it is amending its existing standards for occupational exposure to respirable in crystalline silica (“silica”). See 81 Fed. Reg. 16286.

OSHA determined that employees exposed to respirable silica at the previous permissible exposure limit (“PEL”) are at significant risk of material impairment to their health.

On April 6, 2017, OSHA announced a delay in enforcement of the standard. The standard was originally scheduled to begin June 23rd. The implementation date was extended until September 23rd.

OSHA announced in a September 20th memorandum a “30-day enforcement phase-in.”

Silica is a compound composed of the elements silicon and oxygen and exists in crystalline and amorphous states. It exists in both the natural environment and as produced during manufacturing or other processes. The substances are described as odorless solids, have no vapor pressure and create non-explosive dust when particles are suspended in the air. In crystalline silica, silicon and oxygen atoms are arranged in a 3-dimensional repeating pattern.

The revised standard establishes a new PEL of 50 micrograms of respirable silica per cubic meter of air (50ug/m³) as an 8-hour time-weighted average in all industries covered by the rule. The rule also includes:

- Requirements for exposure assessment
- Methods for controlling exposure
- Respiratory protection
- Medical surveillance
- Hazard communication
- Recordkeeping

OSHA issued two separate standards.

One standard is for general industry and maritime. The other standard applies to construction. The rationale for this division is stated to be the need to tailor requirements to the varying circumstances found in these sectors.

The September 20th OSHA memorandum establishes a 30-day enforcement phase-in to help employers comply with the standard. Citations may be considered for employers failing to attempt to comply.

The memorandum from the OSHA Acting Deputy Assistant Secretary to the Regional Administrators states in relevant part:

During the first 30 days of enforcement, OSHA will carefully evaluate good faith efforts taken by employers in their attempts to meet the new construction silica standard. OSHA will render compliance assistance and outreach to assure that covered employers are fully and properly complying with its requirements. Given the novelty of the Table 1 approach, OSHA will pay particular attention to assisting employers in fully and properly implementing the controls in the table. OSHA will assist employers who are making good faith efforts to meet the new requirements to assure understanding and compliance.

If, upon inspection, it appears an employer is not making any efforts to comply, OSHA's inspection will not only include collection of exposure air monitoring performed in accordance with Agency procedures, but those employers may also be considered for citation. Any proposed citations related to inspections conducted in this time period will require National Office review.

[A link to the Federal Register Notice containing over 600 pages of preamble can be found here.](#)

[A copy of the September 20th memorandum can be downloaded here.](#)