

NOVEMBER/DECEMBER 2016

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**2016 OSHA,
WORKER'S COMPENSATION
AND DRUG TESTING CHANGES**

**PREPARING FOR OSHA'S
NEW SILICA RULES**

**NEW CONFINED
SPACE STANDARDS
FOR CONSTRUCTION**

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THE Safety ISSUE

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Managing Editor: Nick Novak
Art Director: Jayne Laste Design Solutions LLC

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FROM OUR PRESIDENT



What is world-class safety?

AT ABC, we use the term “world-class safety” almost every day. The reason we do is that we hope all of our members strive to be the best when it comes to safety. We do not want to be kind of safe or mostly safe – we want to be the safest contractors in the industry.

But, how do you accomplish that? It starts at the top. When the leadership within a company is an active participant in the safety program, is willing to commit resources – both time and money – to safety training, and integrates safety into all aspects of the business, world-class safety is just around the corner.

In fact, when company owners or CEO's are leading the charge to adopt a culture of safety, we have seen dramatic reductions in total recordable incident rates (TRIR) and days away,

restricted or transferred (DART) – in some cases these have been reduced by more than 50 percent.

Another way to improve safety is to participate in ABC's Safety Training Evaluation Process, or STEP. Members who reach the highest level of achievement – STEP Diamond – have seen their overall TRIR beat the industry average by as much as 86 percent.

This is just a small sample of the ways you can improve your company's culture and take a step toward achieving world-class safety. To find out more about the programs ABC offers, visit abcwi.org/safety.

In the end, all of our contractors have the identical goal: send workers home in the same – if not better – condition than which they arrived that day. With your help, I'm sure we can make it happen.

— John Mielke

“

WE DO NOT WANT TO BE KIND OF SAFE OR MOSTLY SAFE – WE WANT TO BE THE SAFEST CONTRACTORS IN THE INDUSTRY.”

INVEST IN SAFETY

YOU WILL NOT REGRET IT

By Don Moen — HR & Safety Director, ABC of Wisconsin

Owning or managing a construction company, chances are you have a lot on your mind, from hiring employees to managing projects to paying bills. One thing that probably isn't top on your list is implementing safety policies and procedures. While no one would blame you for overlooking safety, that doesn't mean it is a good idea.

When you fail to put safety measures in place at your business, you run the risk of losing everything you have spent so many years to build. That's because one on-the-job

accident can end up costing you a tremendous amount of money.

So how can you keep your jobsite safe when you know little to nothing about implementing safety procedures? Chances are you will probably need to enlist help and ABC of Wisconsin is here to assist you in making sure that you and your workers are protected in the case of an incident/accident. While you may believe you cannot afford such an investment, here are some important reasons why you cannot afford NOT to:

1

EVEN SMALL INJURIES COST BIG MONEY.

According to the Department of Labor, if an employee has a lost time accident on the job, the business owner can be looking at nearly \$100,000 in direct and indirect costs.

2

INSURANCE DOESN'T COVER EVERYTHING.

If you are counting on your insurance plan to pick up the tab, think again. Insurance carriers usually cover only a portion of the costs associated with on-the-job injuries.

3

WORKER COMPENSATION COSTS SKYROCKET AFTER JUST ONE INJURY.

If you think worker compensation insurance is high now, just wait — until you have an accident. Just one claim can cause a huge spike in your premium.

4

INJURIES HURT MORE THAN AN INDIVIDUAL.

A good reputation is something that takes years to build, but only seconds to destroy. When people are injured at your site because you didn't do what was necessary to keep them safe, you can bet people are going to question your judgement.

“

ALL OF US IN THE CONSTRUCTION INDUSTRY HAVE A MORAL OBLIGATION TO PROTECT OURSELVES AND EACH OTHER, TO ENSURE THAT ANYONE WHO SETS FOOT ON OUR JOBSITES DOES SO IN THE SAFEST MANNER POSSIBLE.”

Being an owner is exciting and can be very lucrative. However, it also brings with it a responsibility to keep your workers safe. And while it may be tough to shell out money for things like safety audits and training, it is well worth the money. Studies repeatedly show that employees that feel safe at work are more productive than those who do not. This means that investing in worker safety will pay off in more ways than one!

So, how do you benefit from safety training? It is an important question – especially since most contractors do the math and figure out losing 10 to 30 hours of labor times the number of people who need the training can become an awfully big expense. But, if something were to go wrong with no training records on file, then the expense would be even greater. Furthermore, federal law requires that all employees are trained on the hazards they face prior to work commencing.

BACK TO THE QUESTION, THE BENEFITS YOUR COMPANY WILL RECEIVE ARE:

[1] Increased employee awareness of workplace safety hazards.	[2] In-depth training on the hazards that cause the most injuries.	[3] Safety training promotes safer work practices.	[4] Helps reduce accidents and injuries.	[5] Increased awareness of the need for personal protective equipment.
[6] Increased awareness to pre-operation inspections.	[7] Daily safety best practices.	[8] Knowledge learned in training will be used to prevent future accidents.	[9] Encourages employees to take more responsibility for safety.	[10] Reductions in accidents will reduce medical, insurance and worker's compensation costs.

Many construction managers, general contractors and subcontractors are now requiring every employee to receive at least a 10-hour OSHA Outreach Training card, and each management team member to receive at least a 30-hour OSHA Outreach Training card. An argument can be made that if a customer isn't requiring OSHA Outreach training, that a program designed specifically for your organization may be more effective. And in certain cases this argument could hold true. However, if you are just starting or developing your safety program, OSHA Outreach Training is a great first step for knowledge and awareness to the hazards out there.

Clearly, your company can't afford to skip out on safety training. Luckily, safety training can be completed via open enrollment classes, or you can schedule a class at your facility or project. Safety training is a wise investment, so set up training for your employees today.

Now that you have training, what about developing a world-class safety program to ensure your company stays on the continuous

path to safety excellence? Until now, relatively few studies have been conducted on the correlation between the use of measures companies can take to keep workers safe on jobsites (leading indicators), and the number of incidents/accidents and injuries that occur (lagging indicators). Thus to quantify the positive impact of proactive injury and hazard elimination programs on the jobsite, we gathered data from STEP participants in construction, then analyzed the aggregated data from STEP to determine how measures taken to prevent incidents actually improve lagging indicator performance. From this data we found STEP to be a great safety benchmarking and improvement tool which you as a member can use to measure your safety programs and policies. STEP is a 20 Key Component detailed questionnaire to help you meet your goal of implementing and/or enhancing safety programs that reduce jobsite incident rates. From STEP, now apply ABC's world-class processes to improve safety performance regardless of company size or type of work and you have the ultimate in safety programs.



OUR MODEL FOR A WORLD-CLASS SAFETY PROGRAM UTILIZES STEP AND CONTAINS THE FOLLOWING ELEMENTS:

1

A new-hire safety orientation between 200-250 minutes in length that, in addition to the “traditional” safety topics (company policies and procedures, 29 CFR 1926 compliance requirements, PPE use,

etc.), incorporates a cultural indoctrination led by the highest levels of senior leadership to reinforce that safety is a core value and above all else in the decision-making process.

2

A site-specific safety orientation process regardless of company size or work type designed not only to introduce employees to specific requirements,

hazards and work schedules on the site, but also to reinforce the culture and core values established during the new-hire orientation.

3

Toolbox talks or other short-duration, topic-specific safety training conducted, at a minimum, on a weekly basis for all employees but, ideally, on a daily

basis in order to reinforce safe operating procedures and concepts among all employees.

4

Near-miss/near-hit tracking that includes a clear definition of what constitutes a near-miss/hit, education for all employees on how to conduct near-miss observations and encouragement/incentive to report them, and a root cause analysis method that is applied to each near-miss/hit case in order to determine cause and future abatement/elimination processes.


5

Site safety committees that meet regularly, whose makeup is representative of the jobsite and who is empowered to provide feedback to management on safety policies and procedures in an open exchange of ideas.

6

A substance abuse program with clearly-defined testing procedures and consequences, distributed to all employees and regularly revisited to ensure that all applicable local, state and federal statutes are followed.

ABC’s STEP data provides a clear picture of what world-class safety looks like. Analysis of each of the 20 Key Components’ scores against lagging indicator performance will continue to provide statistical evidence of how individual elements of a safety program contribute to performance. Combined with the resources developed by ABC and the construction industry, you will be able to identify and develop elements of your safety program to improve your lagging indicator performance further.

All of us in the construction industry have a moral obligation to protect ourselves and each other, to ensure that anyone who sets foot on our jobsites does so in the safest manner possible. Through this analysis, and by identifying the elements that lead to improved safety performance, we can achieve our ultimate goal—to send every single construction employee home in the same — or better — condition than which they arrived, every day. 



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NEW CONFINED SPACE STANDARDS FOR CONSTRUCTION

By Dan Parks — Safety Manager, ABC of Wisconsin

Confined Space entry is one of the most hazardous tasks in the construction industry. Employees who enter these spaces not only have to worry about the day-to-day hazards associated with the construction, but they have to perform these activities in a space that could potentially trap or asphyxiate an entrant. For this reason, OSHA has long felt that the general industry

standard didn't do enough to meet the demands of an industry with an ever changing work environment and higher employee turnover.

Effective August 3, 2015, a dedicated construction standard (29CFR 1926 Subpart AA) has been introduced to the industry. This standard will cover all employers and employees that go into spaces

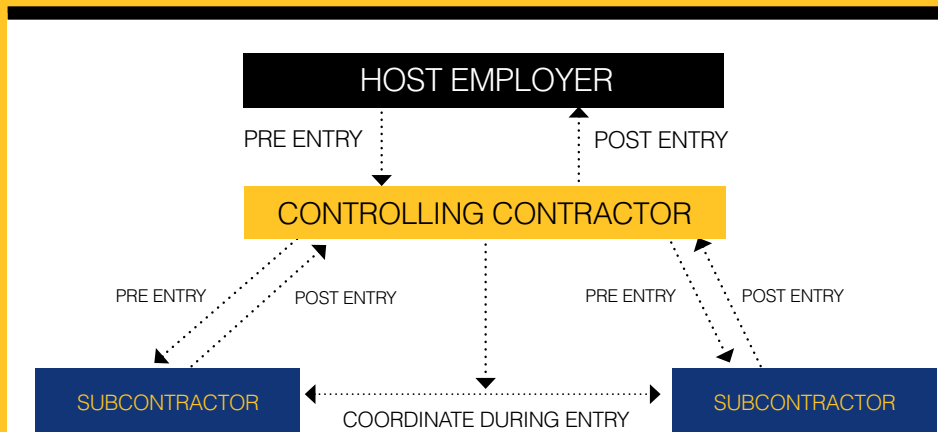
that are large enough to enter but have limited means of entry or exit and are not designed for continuous occupancy. When entering spaces that meet all three of these elements, it is a Confined Space and this standard will apply. Common examples of confined spaces include but are not limited to pits, boilers, manholes, tanks, storm drains and air conditioning ducts.

OSHA HAS IDENTIFIED FIVE KEY DIFFERENCES BETWEEN THE GENERAL INDUSTRY STANDARD AND THE CONSTRUCTION STANDARD.

1 More detailed provisions requiring coordinated activities when there are multiple employers at the worksite. This will improve coordination/communication among all contractors involved in confined space entry and ensure that hazards are not introduced into a confined space by workers performing tasks outside the space.

Illustration 1A (right) provides clarification on this change. The Host Employer (owner) must share information about the space with the Controlling Contractor (General Contractor). The controlling contractor would then coordinate amongst all subcontractors who may enter the space. Likewise, entry employers (Subcontractors) must give the controlling contractor information about their entry program and hazards they encounter in the space, and the controlling contractor passes that information on to other entry employers and back to the host.

2 Requiring a competent person to evaluate the work site and identify confined spaces, including permit spaces.



[1A] Clarification of provisions requiring coordinated activities when there are multiple employers at the worksite.

3 Requiring continuous atmospheric monitoring whenever possible.

4 Requiring continuous monitoring of engulfment hazards. For example, when workers are performing work in a storm sewer, a storm upstream from the workers could cause flash flooding. An electronic

sensor or observer posted upstream from the work site could alert workers in the space at the first sign of the hazard, giving the workers time to evacuate the space safely.

5 Allowing for the suspension of a permit, instead of cancellation.

ASIDE FROM THESE KEY DIFFERENCES, EMPLOYERS AND THEIR EMPLOYEES MUST KNOW HOW TO IDENTIFY A CONFINED SPACE AND DETERMINE WHAT TYPE OF SPACE THEY ARE GOING TO ENTER.

There are three types of confined spaces company employees are exposed to:

<p>[1] PERMIT SPACE There is the potential to contain a hazardous atmosphere, there is a potential for engulfment, has an internal configuration that could trap or asphyxiate an entrant, or contains any other recognized serious safety or health hazard. Note: Rescue procedures must be followed for all permit-required confined spaces. See CFR1926.1211 for more information.</p>	<p>[2] NON-PERMIT A space can be considered this only if all hazards are isolated or eliminated and there is no actual or potential atmospheric hazard.</p> <p>[3] ALTERNATE PROCEDURE All physical hazards are eliminated and the only hazard is an actual or potential atmospheric hazard that can be controlled with the introduction of continuous forced air ventilation (blower).</p>
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IN THE COMING YEARS THIS STANDARD COULD POTENTIALLY HAVE A HUGE IMPACT ON THE CONSTRUCTION INDUSTRY. ”


Once the type of space has been identified and protective measures implemented, the space must be monitored. Any changes to the space must be reevaluated to ensure that the type of space hasn't changed. For example, introduction of a hazardous

chemical in a non-permit space can create a hazardous environment resulting in a Permit Space. The illustration below demonstrates the thought process an employee may use in determining what type of space they are going to enter.

Due to the complexities of this standard, these new rules will require extensive training on all aspects of the standard including hazard identification, communication requirements, protection methods/energy isolation and rescue. For employees not authorized to perform entry rescues, training must convey the dangers of attempting such rescues.

Affected employees must also be trained:

- Before they step foot on a jobsite and prior to any work-related task.
- Whenever there is a change in permit space entry operations that presents a hazard about which an employee has not previously been trained; and
- Whenever there is any evidence of a deviation from the permit space entry procedures required by paragraph §1926.1204(c) of this standard or there are inadequacies in the employee's knowledge or use of these procedures.

In conclusion, in the coming years this standard could potentially have a huge impact on the construction industry. If organizations haven't already planned for these changes, it is extremely important that they review this regulation to ensure they are doing everything necessary to stay in compliance. 

Contact ABC of Wisconsin safety staff for additional information about a confined space training course.
608-244-5883

1 Can the hazard(s) which made the space a permit space be eliminated?

If **YES** The space can be reclassified as a non-permit-required space.

This is when the space has no actual or potential atmospheric hazards and when all other hazards (for example: engulfment, configuration, moving parts, etc.) are eliminated without entering the space. If it's necessary to enter the permit space to eliminate the hazards, the entry must be in full compliance with the written permit space program.

Control of atmospheric hazards through forced air ventilation does not constitute elimination of the hazard. *Question #2 below addresses this.*

If hazards arise during entry into a reclassified space, the entrant must exit immediately and the space must be reevaluated.

There must be documentation detailing that the hazards were eliminated. This "certification" must contain the date, location of the space, signature of the person certifying and must be available to all entrants or their representative.

If **NO** Prepare for permit entry or consider another question...



2 Is the only hazard of the permit space an actual or potential atmospheric hazard?

If **NO** Entry must be made under the written permit space program only.

If **YES** You can follow the alternate "(c)(5)" procedures.

This alternate procedure can only be used when (1) verification is made that using continuous forced air ventilation is safe, (2) monitoring and inspection data supports the atmospheric hazard is the only hazard and the forced air ventilation is effective, and (3) the data is documented and made available to the entrant(s).

If it's necessary to enter the permit space to obtain the monitoring data, the entry must be in full compliance with the written permit space program. When following these alternate procedures, the employer is not required to develop a written permit space program (training and employee participation are still required).

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2016 OSHA, WORKER'S COMPENSATION AND DRUG TESTING CHANGES

By Chuck Palmer — Attorney, Michael Best

2016 has been a year of changes under the Occupational Safety and Health Act (OSHA) and the Wisconsin Worker's Compensation Act. These changes will drastically impact safety and human resource procedures. Additionally, abuse of prescription drugs has increased drastically in the past few years, prompting a need for employer intervention. This article outlines the changes contractors should know about and recommendations for compliance.

OSHA Recordkeeping Changes

Penalty Increases

OSHA increased its maximum penalties on August 1, 2016. Maximum penalties had not been increased since the early 1990s and these adjustments reflect the effects of inflation since that last increase.

OSHA also established a built-in adjustment to account for inflation in the future so these penalty amounts will continue to increase.

Reporting of Injury Data

OSHA issued its Improved Tracking of Injuries and Illnesses regulation in May 2016, requiring submission of data regarding

CLASSIFICATION	PRIOR TO 08/01/16	AFTER 08/01/16
Other Than Serious	\$7,000	\$12,471
Serious	\$7,000	\$12,471
Repeat	\$70,000	\$124,709
Willful	\$70,000	\$124,709
Failure to Abate	\$7,000 per day	\$12,471 per day

CONTRACTORS SHOULD SCHEDULE A REVIEW OF POLICIES IN EARLY 2017, AND PERFORM AN IN-DEPTH REVIEW OF 2016 INJURY REPORTING.

injuries and illnesses through an online electronic record keeping system. The records will be available for public access. The system is scheduled to go live in February 2017 and will require each employer establishment (including construction employers) with 20 or more employees to electronically report the information contained on its 2016 OSHA form 300A (total number of injuries, hours worked and average number of employees). This electronic recording will be required each year, though the deadline date will move to March 1 in 2019. Starting in 2018, employers with 250 or more employees at an establishment will also be required to record individual injuries and illnesses listed on the OSHA 300 log, as well as the data contained on the first report of injury, form 301 for the prior year.

For purposes of measuring the number of employees, an establishment is defined as a “single physical location where business is conducted or where services or industrial operations are performed.” For a construction employer, this may be a long-term project. If the company has one fixed business office with a yard attached, all employees may be included under that business establishment. If there are multiple yards/buildings or long-term projects where employees report to work each day, there may be



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multiple smaller establishments. The size of the business will be measured based upon the establishment's peak employment at any time during the prior year. The employee head count includes full time, part time, seasonal and temporary workers.

Anti-Retaliation Rules

As part of the improved tracking regulation discussed above, OSHA included procedures to prevent employers from retaliating against employees or deterring employees from reporting injuries and illnesses. These regulations include, among other things:

- A requirement to notify employees of the company's procedures for reporting injuries and illnesses;
- A requirement to notify employees of their right to report injuries free of the threat of retaliation;
- A requirement that procedures for reporting be reasonable, and placing restrictions on post-accident drug testing, incentive programs and requirements for immediate reporting of injuries.

These regulations were scheduled to take effect on August 1, 2016, but are the subject of a lawsuit in a federal court and are currently postponed until December 1, 2016.

Worker's Compensation Changes

Drug and Alcohol Testing Rules

Where an injury is caused by a violation of the employer written drug and alcohol testing program, an employee will receive no benefits under the Wisconsin Worker's Compensation statute. The employer will be required to prove the drug or alcohol violation caused the injury and that the employee was aware of the rule. Previously, benefits would only be reduced by 15 percent for drug/alcohol related injuries.

Misconduct or Substantial Fault

Where an employee is terminated for misconduct or substantial fault, the employee's temporary disability benefits may be denied

under the Worker's Compensation statutes. Misconduct is defined as behavior that shows a willful and substantial disregard of the employer's interests or is not within the standards of behavior employers have a right to expect from all employees. Substantial fault is defined as a violation of a requirement of the employer by acting or failing to act when the action or inaction was within the employee's control and the violation does not rise to the level of misconduct.

Examples of misconduct or substantial fault that may lead to termination following a work related accident include: safety violations, attendance violations, positive drug tests and insubordination. This new rule is intended to address the situation where the employee would have been returned to work while healing from an injury but for his/her conduct. Care should be taken not to discharge an employee in these cases without evidence of misconduct or substantial fault. There are penalties for wrongful termination, and OSHA's new anti-retaliation rules may apply to those cases as well.

Pre-Existing Conditions

Employers and their insurance company may now submit evidence that an employee's permanent disability was only caused partially by an accidental injury sustained in the course of his/her employment. If it can be established by medical opinion that a portion of an employee's current condition is caused by a prior injury or disability, an employer or its insurance carrier may challenge that portion of the employee's current condition. If successful, the employer would pay permanent disability only for the portion of the disability caused by the employer's work place exposure.

Drug Testing

Did you know that more Wisconsinites will die this year from overdose by prescription drugs and heroin than accidents on our roads? In fact, 120 people die each day in the U.S. from opioid overdoses. It's a national epidemic.

Most employers do not, however, recognize the role they unwittingly play in the epidemic, and what it is costing them. Opioids (oxycontin, hydrocodone, vicodin, to name a few) are often paid for by employer provided insurance. The employee can become addicted to the opioid, even if used as prescribed. Eventually, the supply is cut off. The employee/addict finds other sources for the opioids, often illegally buying prescription drugs or switching to heroin.

Contractors should require all construction employees (and employees who drive as part of their job) to report any narcotic use under prescription or otherwise. If an employee informs

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the employer of such use, this should be monitored. If narcotic use lasts for an extended period (weeks or months), seek advice from a qualified medical professional regarding the safety and health of the employee.

It is also important that employers realize the five-panel drug testing protocol, mandated by the U.S. Department of Transportation, will not detect prescription opioids. There is some evidence that prescription opioid use has increased over marijuana, because the most commonly used five-panel testing reveals marijuana, but not prescription pain medications. Employers can and should add testing for prescription (synthetic) opioids to their laboratory screening arrangements, and make employees aware of this. This one step may help in curbing this epidemic.

Recommendations


- Train employees responsible for keeping OSHA records on recordability.
- Evaluate the size of your establishment(s) and determine obligations for reporting. OSHA has made it clear that these records will be available to the public. They will be used for targeting companies for inspection purposes, decisions to award construction contracts and may be utilized in union organizing.
- Review your procedures for reporting injuries to make sure that they are clear and not overly burdensome to the reporting employees.
- When disciplining employees for an unsafe act or other misconduct related to a work place injury, make sure that employees are disciplined for the same conduct where no injury occurs.
- Hold off on changing post-accident drug testing, incentive plans and immediate reporting rules. These changes may be subject to an injunction in federal court

CARE SHOULD BE TAKEN NOT TO DISCHARGE AN EMPLOYEE IN THESE CASES WITHOUT EVIDENCE OF MISCONDUCT OR SUBSTANTIAL FAULT.

on or before December 1, 2016. Review the outcome of that decision in late November. OSHA is already backpedalling on its original interpretations and filed a watered-down interpretation with the court on October 26, 2016.

- Where an employee suffers a work related injury after March 1, 2016, discuss with the insurance claims manager whether there was misconduct, substantial fault, a violation of drug and alcohol rules or a pre-existing condition that would be subject to the new Worker's Compensation rules.
- Require (by policy) employees who

drive or work in construction to report narcotic use, and monitor for over use impacting health and safety.

- Include synthetic opioids in drug testing.
- These rules are still developing, so contractors should schedule a review of policies in early 2017, and perform an in-depth review of 2016 injury reporting. Qualified safety professionals and/or legal counsel should be consulted regarding compliance with these rules, policy changes and reporting obligations. 

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BEFORE THE DUST SETTLES: PREPARING FOR OSHA'S NEW SILICA RULES

By Ted Sommer — Safety Manager, ABC of Wisconsin

Have you heard the joke about the OSHA compliance officer who showed up to your construction project and started taking samples of the dust cloud around your crew? No?

Of course, this doesn't sound like a laughing matter given the recent increase in OSHA penalties [see article on page 16] and it isn't likely that the OSHA officer will be in a joking mood either. The punchline will depend on how well you prepared for OSHA's new Silica regulations.

OSHA recently published stringent rules that will significantly lower the allowable exposure limits to crystalline silica and adds new requirements that will affect virtually all contractors in some way. The rules will impact all contractors who cut, drill, grind, sand or crush materials like concrete, rock, brick, stone, block and sand. Some work with drywall joint compounds made with silica will be impacted (for example, mixing and sanding). It will also include tasks like sand blasting and work in foundries and glass manufacturing.

For the construction industry, the new rules become effective June 23, 2017. Similar regulations are being implemented for General Industry, Maritime and the Hydraulic Fracturing sectors, but they have different deadlines for compliance.

Why Change the Rules?

OSHA has determined that employees exposed to respirable crystalline silica at the previous permissible exposure limits face a significant risk to their health. Their study indicates that workers exposed to respirable crystalline silica are at increased risk of developing silicosis and other non-malignant respiratory diseases (such as COPD), lung cancer and kidney disease. The previous permissible exposure limit (PEL) was approximately 250 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$). Extensive epidemiologic evidence shows that lung cancer and silicosis occur at exposure levels below 100 $\mu\text{g}/\text{m}^3$. Therefore, OSHA has lowered the PEL in construction to 50 $\mu\text{g}/\text{m}^3$ in the new standard. This is a significant decrease in the allowable exposure!

OSHA estimates that once the effects of the rule are fully realized, it will prevent more than 600 deaths per year. Of these deaths, 124 will be from lung cancer, 325 will be from silicosis and other non-cancer lung diseases, and end-stage kidney disease will account for 193 deaths prevented. They estimate more than 900 new silicosis cases per year will be prevented.

Does the New Rule Affect You?

OSHA says the new rule “applies to all occupational exposures to respirable crystalline silica in construction work, except where employee exposure will remain below 25 micrograms per cubic meter of air (25 µg/m³) as an 8-hour time-weighted average (TWA) under any foreseeable conditions.” So, there are only two ways that you won’t be affected: Either you don’t work with any products containing silica (and you don’t work near anyone who does); or you do work with silica and you have conducted industrial hygiene testing to demonstrate that your exposures will always be below the 25 µg/m³ limit. In other words, you probably are impacted.

Ready for Some Good News?

Under the old rules, OSHA often took a position that contractors were guilty until proven innocent. Contractors were expected to conduct employee exposure sampling and lab analysis to determine

if exposures were below the allowable limits. Employers who didn’t have monitoring data on hand for tasks were cited by OSHA even when OSHA’s own testing showed that employees were exposed below the legal limits.

The new rules allow contractors who perform common tasks to use universal exposure guidelines for 18 common tasks that are listed in Table 1 in the standard in lieu of conducting sampling. Table 1 provides procedures for dust control and respiratory protection that employers can use to comply with the new rules. This will save time and money spent on exposure monitoring. This means that as long as you comply with the conditions listed in the table, you can avoid the need to prove exposure levels for every task. You also don’t need to worry about all those precise µg/m³ numbers and trying to decipher them. In fact, as long as you fully comply with the conditions in Table 1, the PEL for silica doesn’t apply.

Of course if your tasks don’t fit into one of the 18 listed in the table, or you are unable to fully implement the engineering controls listed in Table 1, you will still need to conduct testing during normal conditions to determine employee exposure levels.

Engineering Controls to Reduce Dust Exposure

The new rules prohibit dry sweeping or brushing as well as the use of compressed air for cleaning clothing and surfaces. Instead,

TABLE 1 TASKS SPECIFIED EXPOSURE CONTROL METHODS WHEN WORKING WITH MATERIALS CONTAINING CRYSTALLINE SILICA

Equipment / Task	Engineering and Work Practice Control Methods	Required Respiratory Protection and Minimum Assigned Protection Factor (APF)	
		≤ 4 hours /shift	> 4 hours /shift
(i) Stationary masonry saws	Use saw equipped with integrated water delivery system that continuously feeds water to the blade. Operate and maintain tool in accordance with manufacturer’s instructions to minimize dust emissions.	None	None
(ii) Handheld power saws (any blade diameter)	Use saw equipped with integrated water delivery system that continuously feeds water to the blade. Operate and maintain tool in accordance with manufacturer’s instructions to minimize dust emissions. – When used outdoors. – When used indoors or in an enclosed area.	None APF 10	APF 10 APF 10
(xvii) Heavy equipment and utility vehicles used to abrade or fracture silica-containing materials (e.g., hoe-ramming, rock ripping) or used during demolition activities involving silica-containing materials	Operate equipment from within an enclosed cab. When employees outside of the cab are engaged in the task, apply water and/or dust suppressants as necessary to minimize dust emissions.	None	None

For entire table see OSHA.gov/silica

workers should select HEPA vacuuming, wet sweeping or other suitable methods to control dust exposures.

The tasks listed in Table 1 generally require ventilation as needed to minimize the accumulation of visible airborne dust, or the use of wet methods with water at flow rates sufficient to minimize release of visible dust.

Silica Program and Respiratory Protection Programs Go Hand in Hand

In addition to needing a written exposure control plan for your employees who are exposed to silica in the workplace, you will also need an effective respiratory protection program when respirators are used to limit exposures. Both programs require medical surveillance as included elements. Your respiratory program will require each employee to be approved by a physician or another licensed health care provider prior to using a respirator. The voluntary use conditions and OSHA's Appendix D aren't going to apply when using Table 1 or when employees are exposed above the PEL. Employees will need to be fit tested and trained prior to using the respirators.


When respirators are required, they must be used by all em-

ployees engaged in the task and must be worn until the task is complete.

Employers must offer medical examinations to workers who will be required to wear a respirator under the standard for 30 or more days a year. These exams are different than the initial respirator clearance exams and include medical and work history, physical exam, chest X-ray and pulmonary function test.

New Training Requirements

Training is included in this rule just like all the other OSHA rules. You will need to conduct the training by the time the new rule becomes effective in June 2017. The new standard requires that you ensure that each employee covered by this section can demonstrate understanding of health hazards, tasks resulting in exposure, workplace protections (including engineering controls and respirators used), the identity of the competent person and the medical surveillance program.

You can seek compliance assistance from your insurance company, a consultant or ABC of Wisconsin's safety team. Due to the level of preparation needed to get up to speed, you don't want to wait until the last minute on this, or you risk becoming the target of more than just a joke. 

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Madison
Nov. 11 & 18, 2016
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Competent Person Training for Excavation

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Arc Flash Training

Appleton
Dec. 19, 2016
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Residential Wiring Part 2

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