



September 14, 2016

David Thomas
Chair, Occupational Safety and Health Standards Board
2520 Venture Oaks Way, Suite 350
Sacramento, CA 95833

Re: Proposal to Revise Title 8 of the CA Code of Regulations by Adopting New Sections 1532.3, 5204 & Amending Existing Section 5155 Regulating Occupational Exposure to Respirable Crystalline Silica

Chairman Thomas,

On behalf the Sacramento Builders Regional Exchanges' (SRBX) 1,200 members, we respectfully oppose the proposed rule to lower the permissible exposure limit (PEL) of crystalline silica allowed at construction projects.

SRBX membership includes construction safety professionals, builders, construction managers, engineers, architects, and specialty trade contractors representing virtually every facet of the industry. Our members are committed to providing a safe and healthful work environment for their employees, whose daily efforts in today's economy provide vital support to their families and the communities in which they live. Our members' highest values concern the safety and health of those who they employ.

SRBX strongly believes that an increased emphasis on compliance of existing regulations should be employed, as opposed to lowering the existing PEL of crystalline silica in order to increase worker safety. These regulations, as proposed, would require prescribed control methods that contradict existing safety practices, while mandating burdensome recordkeeping and new and extensive training requirements. Finally, the proposed regulations are presently being adjudicated and we believe that it is premature to adopt these regulations until a final ruling by the court has been issued.

As you know, silica is one of the most abundant substances on earth. It is most commonly found as sand or Quartz, and is ubiquitous on construction sites by virtue of its presence in many commonly used construction materials, including concrete, brick, rock, and stone. Construction activities that can generate/spread silica dust include jackhammering, grinding, milling, rock crushing, drywall finishing, earthmoving, sawing, and drilling.

Currently, silica exposure limits are set at 250 micrograms for construction and 100 micrograms for other industries. The proposed rule seeks to reduce the construction industry's PEL for airborne silica by approximately 80 percent--from 250 micrograms of respirable crystalline silica per cubic meter of air, averaged over an eight-hour day, to 50 micrograms. Furthermore, construction employers will be required to monitor workers' exposure levels and ensure that employees are not exposed to silica levels above the PEL through administrative or engineering controls.

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OSHSB/Silica

While we acknowledge that OSHA and the OSHSB may lack sufficient resources to enforce the current PEL across all industry, lowering the current PEL and imposing an even lower level threshold will not improve compliance; it will do the opposite. Instead, OSHA and the OSHSB may consider requiring employers to formally assess exposures and to control those exposures that exceed the current PEL; and to maintain the results of such assessments for inspection by OSHA and OSHSB compliance officers. Employers should provide reasonable medical surveillance for employees with exposures in excess of the current PEL.

Even more troubling, the proposal is rife with errors and inaccurate data that call into question the entire rulemaking process. Agency officials, for example, omitted 1.5 million construction workers from its assessment of the size of the affected workforce.

Also, the proposed rule is virtually impossible to accurately measure or protect against using existing technology. For example, commercially-available dust collection technology is not capable by itself of protecting workers from the rule's new silica exposure limit. A limitation the agency appears to acknowledge in its additional requirement that workers also wear respirators, something that would not be necessary if the dust collection technology was effective.

As a result of these problematic issues, the Association of General Contractors filed a petition that was joined by Associated Builders and Contractors, National Association of Home Builders, Mechanical Contractors Association of America, American Road and Transportation Builders Association, Mason Contractors Association of America and American Subcontractors Association filed petitions in the D.C. and the 3rd Circuits, while industry groups filed petitions in the 5th, 8th, 10th and 11th Circuits.

Given the lack of scientific explanation justifying the new exposure limits, the many contradictions between the rule and the realities faced in the construction industry, and the fact the proposed rules are being litigated, SRBX recommends that OSHSB retain the current 100 $\mu\text{g}/\text{m}^3$ PEL because it provides adequate protection when it is fully complied with and fully enforced.

Thank you for your continuing hard work to improve safety and health conditions for all California construction workers.

Respectfully,

Damon R. Conklin
Director, SRBX Government Affairs

Cc: Members of the Occupational Safety & Health Standards Board