

Advocacy Recommends That OSHA Assess Small Business Concerns with Proposed Respirable Crystalline Silica Rule

On February 11, 2014, the U.S. Small Business Administration's Office of Advocacy (Advocacy) submitted public comments on the Occupational Safety and Health Administration's (OSHA's) *Proposed Occupational Exposure to Respirable Crystalline Silica Rule*. [78 Fed. Reg. 56274 (September 12, 2013)]. OSHA's proposed rule would change the regulatory requirements that employers must meet when their employees are exposed to respirable crystalline silica above a certain level. Silica is basically sand (most commonly quartz) that comes in a variety of forms and conditions and is used in a wide range of applications across a host of industries. Exposure to respirable crystalline silica (which consists of very small particles that are able to penetrate into the lungs) has been linked to silicosis, lung cancer, and other diseases. OSHA's proposed rule would establish a new permissible exposure limit (PEL) of 50 $\mu\text{g}/\text{m}^3$ with an action level of 25 $\mu\text{g}/\text{m}^3$ (both calculated as an eight-hour time-weighted average). Exceeding the action level would require periodic exposure assessments, while exceeding the PEL would trigger a host of administrative and regulatory controls.

OSHA convened a Small Business Advocacy Review panel in 2003 to consider the impact of a proposed rule on small entities. Small entity representatives, who provided advice and recommendations to the panel, generally opposed lowering the PEL and recommended that OSHA enforce the existing limits and focus on compliance assistance. Advocacy has also engaged in extensive outreach about the proposed rule with small business representatives. Advocacy's comments are reflective of the issues raised during the small business panel process and in additional meetings and discussions with small business representatives.

A complete copy of Advocacy's letter to OSHA is available at: www.sba.gov/advocacy.

- Advocacy commended OSHA for making several changes to the proposed rule that would reduce the impact on small entities, but noted that small business representatives have raised significant concerns about OSHA's risk assessment as well as the technological and economic feasibility of complying with the proposed rule.
- Advocacy recommended that OSHA carefully consider the comments it receives from small businesses and their representatives, and continue to evaluate whether older exposure data is reliable and whether the form and condition of silica can significantly affect risk.
- Advocacy recommended that OSHA work with the construction industry to refine Table 1 into a means of achieving compliance with the PEL (i.e., a safe harbor).
- Advocacy recommended that OSHA consider providing additional opportunities for small businesses and their representatives to effectively participate in this rulemaking process.

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