

# Property & Casualty Newsletter

September 2018: Construction Alert

## UOSH to Enforce New Silica Rule Beginning October 2018

As most in the construction industry know, the Occupational Safety and Health Administration (OSHA) issued a final rule in March of 2016 to improve protection for workers exposed to respirable silica dust. This rule was codified at 29 CFR §1926.1153 and became effective on June 23, 2016. The rule reduced the permissible exposure limit (PEL) to 50  $\mu\text{g}/\text{m}^3$  for all OSHA-regulated worksites, which reflected a 50% reduction for the general industry and an 80% reduction for construction and maritime operations.

Under this rule, states with OSHA-approved state plans had six months to adopt silica standards that were at least as effective as the federal OSHA standards. In an update provided to Moreton & Company's Safety & Loss Control Department, the Utah Occupational Safety and Health Division (UOSH) announced that it will begin enforcing the silica rules put in place by OSHA beginning October 12, 2018. A formal press release from UOSH may be forthcoming.

Given the extensive differences between the old and the new rules, contractors in Utah without experience working under the new rules should start preparing now to become compliant. Highlights of the new standard include:

- Offering three methods an employer can choose to demonstrate compliance and assess employee exposure including:

1. **Table 1:** A table of pre-defined tasks and specified control methods available in the market.
  2. **Performance or "Objective Data":** Assess exposure by providing objective data proving the control method used reduces silica dust exposure below the permissible exposure level (50  $\mu\text{g}/\text{m}^3$ ).
  3. **Scheduled Air Monitoring Program:** Assess exposure by implementing a scheduled air monitoring program to ensure employees are not exposed above 50  $\mu\text{g}/\text{m}^3$ .
- Requiring employers to use engineering controls and practices to limit exposure to PEL, such as using water to suppress the dust, implementing local exhaust ventilation systems, and limiting worker access to high exposure areas.
  - Mandating respiratory protection where controls and work practices are not feasible.
  - Requiring contractors to create a written exposure control plan that is reviewed annually and that includes descriptions of: 1) the tasks that involve exposure to silica, 2) the engineering controls, work practices, and respiratory protection used to limit exposure, 3) the housekeeping measures used to limit exposure, and 4) the procedures used to restrict access to work areas.



- Designating a competent person to enforce the written exposure control plans who has the authority and power to take corrective measures.
- Mandating medical surveillance of employees who are required to wear a respirator for 30 days or more a year because they are performing work covered by the silica standard.
- Specifying and requiring training to be provided to employees covered by the rule.
- Requiring record retention for up to 30 years after employment.
- Offering compliance alternatives to provide flexibility to small businesses.

A failure to comply with the new rules can result in significant fines. Moreton & Company is ready to answer your questions about the new rule and to assist you with compliance.

## Additional Resources

### OSHA

- Overview of the Rule  
<https://www.osha.gov/Publications/OSHA3683.pdf>
- Fact Sheet on Construction  
<https://www.osha.gov/Publications/OSHA3681.pdf>
- Frequently Asked Questions  
[https://www.osha.gov/silica/Silica\\_FAQs\\_2016-3-22.pdf](https://www.osha.gov/silica/Silica_FAQs_2016-3-22.pdf)

### Center for Construction Research & Training

- [www.silica-safe.org](http://www.silica-safe.org)

Please contact your Moreton & Company consultant with any questions.

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