

# Regulatory Agenda for Health Issues

EEI Safety and Health  
Committee Conference  
Fall 2009

# Regulatory Agenda

Updated from OSHA and Other Sources

## Known

- Crystalline Silica
- Beryllium
- Confined Spaced in Construction
- Hazard Communication Revision
- Fit testing

## Delayed / Questionable

- Emergency Response/Preparedness
- Hearing Loss in Construction

# EPA Upcoming Rules

- Revision of Hearing Protection Ratings
- Modification to Asbestos Model Accreditation Plans (MAP)
- Lead Based Paint MAP for Commercial Buildings, Bridges and Other Structures

# Crystalline Silica

## Pre-Rule

- **Summary:** Crystalline silica is a significant component of the earth's crust and many workers are exposed to it. The current PEL was based upon guidance from 1971. OSHA believes that the PEL should be lowered to protect employees from developing chronic silicosis. OSHA also believes that provisions, such as engineering controls, provided by a comprehensive standard will be necessary to reduce worker exposure to crystalline silica. OSHA plans in this rulemaking to modernize the Agency's current PELs for silica so that they will be consistent across all sectors. Draft had PEL as low as 50 ug/m<sup>3</sup>.
  
- **Impact:** Will affect activities that generate dust, concrete dust, fly ash dust and other silica containing dust.
  
- **Time Table:**
  - Completed SBREFA Report December 2003
  - Complete Peer Review February 2009
  - Risk assessment started Mid-2009

Proposed rule date not provided, but is on priority list.

# Beryllium

## Pre-rule

- **Summary:** On November 26, 2002 OSHA issued a "Request for Information" and then plans to evaluate the extensive research to identify the best ways of reducing employee exposure to beryllium. OSHA will also be identifying processes, industries and kinds of businesses that involve the use of beryllium.

In the "Request for Information", OSHA identified abrasive blasting with coal slag as a potential occupational exposure.

- **Impact:** Coal slag and coal ash may contain trace quantities of beryllium. Some possible machining exposure on spark resistant tools or other exotic metals. Impact will depend on PEL and housekeeping provisions.

- **Time Table:**

- |                           |               |
|---------------------------|---------------|
| ■ Request for information | November 2002 |
| ■ Complete SBREFA Report  | January 2008  |
| ■ Complete Peer Review    | March 2009    |
| ■ Risk Assessment         |               |

# Hazard Communication

## Proposed Rule

- **Summary:** OSHA is considering modifying its HCS to make it consistent with the Globally Harmonized System of Classification and Labeling of Chemicals (GHS). This would involve changing the criteria for classifying health and physical hazards, adopting standardized labeling requirements and requiring a standardized order on MSDS.
  
- **Impact:** Current MSDS and Labels would need to be revised by the manufacturer. Revision of internal MSDS
  
- **Time Table:**
  - ANPRM September 2006
  - Comment Period Closed November 2006
  - Complete Peer Review November 2007
  - Notice for Proposed Rulemaking December 2008
  - OSHA plans a proposed rule **September 30, 2009**
  - Already under review at OMB

# Confined Spaces in Construction

## Proposed Rule

- **Summary:** In January 1993, OSHA issued a general industry rule to protect employees who enter confined spaces. This standard does not apply to the construction industry because of differences in the nature of the worksite in the construction industry. In discussions with the United Steel Workers of America on a settlement agreement for the general industry standard, OSHA agreed to issue a proposed rule to extend confined-space protection to construction workers appropriate to their work environment.
  
- **Impact:** Proposed standard is different than current General Industry Standard. Differences will lead to confusion and compliance difficulty – particularly when Construction and General Industry confined spaces are on the same site.
  
- **Time Table:**
  - Proposal Published November 28, 2007
  - Written Comments Due February 28, 2008
  - Public Hearing July 22, 2008
  - Close November 2008

# Fit Testing

## Proposed Rules

### **Summary:** Two separate rules

- OSHA issued a proposed rule allowing two streamlined protocols for use with PortaCount.
- Protocol 1
  - Test exercises be performed for 30 seconds instead of the 60 seconds per test.
- Protocol 2
  - Reduce exercise time to 40 seconds instead of 60 seconds
  - Eliminate two of the eight fit testing exercises
  - Raise pass/fail from 100 to 200 for half masks / 500 to 1,000 for full facepieces.
  - Planned Bitrex fit testing protocol change-Withdrawn

### **Industry impact:**

- Possible benefit from streamlining /reducing time spent fit testing.

### **When:**

- No date for final rule provided.

# Hearing Loss in Construction

## Delayed/Questionable Regulations

### **Summary:**

- Hearing Loss standard does not cover construction work.
- OSHA considering separate standard for construction.
- Possible differences could include emphasis on impact noise.

### **Industry impact:**

- Unknown
- Depend on differences from the current standard.

### **When:**

- No date provided.
- OSHA has not taken any action on this issue in several years.

# Emergency Response/Preparedness

## Delayed/Questionable Regulations

### Summary:

- OSHA requested comments on emergency response and preparedness regulations.
  - HAZWOPER
  - Confined space rescue provisions
  - Bloodborne pathogens
  - Respirators
- OSHA feels they are outdated and wants to reopen and update them
- Considering a new regulation to better link all such regulations.

### Industry impact:

- Could improve linkage in company plans or could complicate them.

### When:

- No date provided.

# Revision of Hearing Protection Ratings

## EPA Regulation

### **Summary:**

- EPA sets the criteria for hearing protection manufacturers.
- Will introduce a new Noise Reduction Rating with a range instead of single number

### **Industry Impact:**

- Depends on degree of change in PPE rating

### **When:**

- Propose and final rule in 2009.
- EPA has not sent to OMB for review yet.

# Modification to Asbestos Model Accreditation Plans (MAP)

## EPA Regulations

### **Summary:**

- Update to 1994 Interim Final Rule covering asbestos training and accreditation

### **Industry Impact:**

- No information provided on possible changes
- EPA has never stated what changes are planned

### **When:**

- EPA is moving slow on changes
- Final rule expected late 2010.

# Lead Based Paint MAP for Commercial Buildings, Bridges and Other Structures

## EPA Regulation

### **Summary:**

- Regulations governing lead-based paint activities in
- Public/ commercial buildings and steel structures
- Similar to asbestos MAP covering training, accreditation and contractor certification

### **Industry Impact:**

- Nearly identical impact to current asbestos MAP regulations
- Could make simple coating disturbance complicated

### **When:**

- Possible proposed rule in late 2010.
- EPA consistently pushed this rule out another year for last decade

# Key Issues Not on the Agenda (Yet)

- Ergonomics
- Pandemic Flu

Questions ???