

Regulatory Agenda for Health Issues

EEI Safety and Health
Committee Conference
Spring 2010

Regulatory Agenda

Updated from OSHA and Other Sources

Known

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

Crystalline Silica

Proposed-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/m³.
- **Impact:** Will significantly effect 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
 - New Peer Review Jan. 24, 2010
 - NPRM Feb. 2011

This rule is on the 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 /Peer Review	3/22/2010 to 11/2010
■ Proposed Rule	Unspecified at this time
- **Note:** There will be an informative presentation on Beryllium issues in the IH session.

Hazard Communication

Proposed Rule

- **Summary:** OSHA is considering modifying its HCS to align 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. Significant cost to update/revise internal company MSDS, policies and retrain workers.
- **Time Table:**
 - ANPRM September 2006
 - Comment Period Closed November 2006
 - Complete Peer Review November 2007
 - Notice for Proposed Rulemaking December 2008
 - OSHA issued a proposed rule September 2009
 - Under review at OMB. OSHA lists this as a priority.
 - Conducting informal hearings beginning March 2, (Pittsburgh on Mar. 31)
- There is a presentation for this important topic in the IH session.

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
 - Closed November 2008
 - Analyze Comments October 2010
- OSHA continues to review comments and has not provided a date for the rule

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:

- Early 2010 date provided for final rule.
- **January 27, 2010 The proposed changes were withdrawn by OSHA.**

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.
- OSHA guidance document on training, personal protective equipment for safeguarding emergency medical responders released in Nov. 2009

Methylene Chloride

Regulatory Review

- OSHA is performing a review of the existing standard to evaluate need for changes to “improve” the standard.
- Expect to complete this in 2010 and will then decide whether to reopen based on results if the study.
- Many companies are not using these products any longer.

■ End Review

4/2010 ??

Hexavalent Chromium

Final Rule Remand

- To review requirements for notifying employees of sample results when monitoring is conducted.
- Will use a direct rule to require notification of all monitored employees and not just those over exposed.
 - OSHA took comments until April 16, 2010.
 - Direct final rule will take effect June 15 if, “no significant adverse comments are received.”
 - (n)(3) Except as provided in (n)(4), for all employers, engineering controls required by paragraph (f) of this section shall be implemented no later than **May 31, 2010**.
- **The IH Session agenda has significant information on this and other welding issues.**

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 to issue final rule in early 2010.

Key Issues Not on the Agenda (Yet)

- Ergonomics
 - In January OSHA proposed restoring the MSD classification on 300 logs by March 30, 2010.
 - This is seen as a way to justify future standards development.
- Pandemic Flu
 - Issued a compliance directive to ensure uniform procedures when conducting inspections to identify and minimize or eliminate high to very high risk occupational exposures to the 2009 H1N1 influenza A virus.
 - The directive closely follows the Centers for Disease Control's (CDC) guidance.

Questions ???