

ARE YOU IN COMPLIANCE WITH OSHA'S NEW SILICA RULE?

The Occupational Safety and Health Administration's (OSHA) new rule for respirable crystalline silica went into effect on June 23, 2018. Prior regulations for silica were deemed to be outdated as new research regarding the negative health effects of respirable silica has been conducted. Exposure to high concentrations of silica dust can occur in the construction industry, precast construction and fabrication, concrete product manufacturing, and more. Workers who inhale small crystalline silica particles are at risk of developing severe illnesses, including silicosis (an incurable lung disease that could lead to disability or death), lung cancer, and kidney disease.



OSHA's new silica rule lowers the Permissible Exposure Level (PEL) for respirable crystalline silica to $50 \mu\text{g}/\text{m}^3$, as compared to $100 \mu\text{g}/\text{m}^3$ in the old rule, measured as an 8-hour time-weighted average (TWA). Simply put, facilities must ensure that their employees are not exposed to concentrations of respirable silica above the PEL over the course of an 8-hour shift. To verify this, air monitoring should be conducted for all affected employees. The results of the air monitoring will determine if any additional sampling or control measures must be implemented. Sampling may be discontinued if the air monitoring results show that employees are not exposed to concentrations below the Action Level of $25 \mu\text{g}/\text{m}^3$. If results are at or above the Action Level, but below the PEL, then sampling must be **re-conducted within 6 months**. Lastly, if sample results are above the PEL, sampling must be **re-conducted within 3 months**. The results of all air monitoring must be shared with your employees along with any corrective actions that may be necessary. Employees (or their designated

representatives) must be allowed the opportunity to observe the monitoring procedures for determining the levels of Silica dust in the workplace.

The new silica rule also requires facilities to establish "regulated areas" where workers could be exposed to hazardous concentrations of respirable silica, based on positive results from an air monitoring survey. These areas must be marked with notification signs and respirators must be offered to anyone who enters into the areas (remember that there are additional requirements for employees who don respirators). Facilities must also develop a written exposure control plan that identifies tasks that may expose employees to respirable silica as well as actions taken by the facility to minimize employee exposure to silica, such as respirator usage and good housekeeping practices that minimize the use of compressed air and dry sweeping. Medical exams should be offered to employees who are exposed to levels at or above the Action Level for 30 or more days per year, and records of these exams should be maintained by the facility. The facility should ensure that their employees are trained in recognizing hazards associated with respirable silica as well as methods that can be taken by the employees and facility to minimize exposure.

It is important to be sure that your facility is in compliance with the requirements set by the updated rule to keep your employees safe from the hazards associated with overexposure to respirable silica.

If you would like more information regarding the new rule, or if you would like to discuss what you should do to come into compliance with the rule, please contact CTI.



PERIODIC ENVIRONMENTAL AND SAFETY COMPLIANCE REVIEWS ARE A GOOD BUSINESS PRACTICE

While some facilities, typically with a corporate hierarchy, regularly conduct internal audits or answer internal questionnaires about their environmental and safety practice, it is not very common for a facility to have a review of all permits, programs, procedures, and equipment to make sure that they follow all federal, state, and local regulations and requirements. We recommend for all facilities to conduct periodic Environmental and Safety Compliance Reviews (ESCR) either with an internal team or by a third party.

The ESCR should include a review of permit and record-keeping requirements, procedures and SOPs, and employee training. The review should also include a physical walkthrough of the facility and process lines to identify any gaps in safety and environmental compliance. The ESCR can also be conducted in conjunction with global and corporate standards, management systems, as well as specified internal auditing procedures. The ESCR will not only identify gaps in compliance but will allow for the team to prioritize the abatement of the gaps based on capital investment required, time allocations, and employee and environmental safety. It is recommended the ESCR be conducted twice a year, or, at a minimum, once a year.

Some of the benefits of conducting regular ESCRs are as follows:

- Improve worker safety
- Reduce the potential of polluting the environment
- Avoid potential fines and/or penalties by regulatory agencies, an avoid potential visits from regulatory agencies in the first place. Repeat violations could result in exponentially higher fines.
- Reduce liability by facility/employer
- Taking a proactive approach, versus reacting after an incident, allows more time to identify compliance gaps and prevent exposure to hazards. If these disparities are found by a regulatory agency, the agency typically requests a quicker abatement time, usually costing more money and man power to accommodate
- Enable permit updates for new equipment and process in a timely manner prior to start up as required by many local, state, and federal regulations.
- Provides a baseline analysis of facility operations and compliance to be used as a tool to measure a facility's improvement over time.
- Build a greater understanding of the agencies and laws that regulate your particular business.
- Provide an opportunity to develop key performance indicators which can be reviewed along any preferable time interval.

FEDERAL, STATE, AND LOCAL CHANGES TO AIR PERMITTING REQUIREMENTS

Changes to EPA "Once In Always In" Policy for MACT Rules

On January 25th 2018, the EPA released a guidance memo reversing the "Once in Always in" (OIAI) policy regarding the classification of major source facilities subject to MACT (Maximum Achievable Control Technology) standards. A major source is defined as any facility which emits at least 10 tons of any Hazardous Air Pollutant (HAP), or 25 tons of any combination of HAPs. This policy, which has been in place since 1995, stated that any major source that becomes subject to a MACT rule must stay in compliance with that rule permanently, even if the facility finds a way to drop emissions below major source thresholds.

Opponents of the OIAI policy have long argued that the policy imposes an unfair regulatory burden on facilities that no longer emit pollutants at major source levels and prevents major source facilities from investing in novel changes in their production methods or new technologies that could limit air pollution more effectively than the methods imposed by the MACT rules. They also argue that the OIAI went against a "common sense" reading of the Clean Air Act which strictly defined area and major sources by their HAP emission levels, with no explicit exception al-

lowing EPA to classify facilities below major limits as major sources.

With the new guidance memo in place, any major source facility currently subject to MACT regulations can apply to have their status changed to an area source if they are able to to reduce potential HAP emissions below major source thresholds, or if they agree to take a federally enforceable limit as a synthetic minor source. The benefits of a facility going through all these steps in order to lower is classification are the area and synthetic minor sources are subject to significantly fewer regulatory requirements compared to major sources. Major sources often have a variety of monitoring, data collection, recordkeeping, and reporting requirements imposed on them by the EPA.

The EPA's policy reversal has been challenged in the DC Circuit Court of Appeals by the District Attorney of California and a coalition of environmental organizations due to concerns about the policy's legality and potential impacts on public health. The issue revolves around the fact that MACT standards often result in pollutant levels that are lower than the major source thresholds. The plaintiffs are concerned that elimination of the OIAI policy will result in unacceptable increases in pollution as facilities choose to

FEDERAL, STATE, AND LOCAL CHANGES TO AIR PERMITTING REQUIREMENTS (CON'T)

allow their emissions to rise to levels just under the major source thresholds. They state that this result would cause significant health problems across the nation and violates the intent of the Clean Air Act.

Although the policy reversal was declared effective immediately by the EPA, the legal challenges to this decision could take months or years to resolve in the courts. This uncertainty will likely play a large part in how facilities weigh the risks and advantages of taking action to have their current status changed from major to area or synthetic minor, since a future court decision may undo any effort facilities put into this decision in the short term.

Changes in Metro Atlanta Area's Non-Attainment Status for Air Quality

Since 1992, 13 Metro Atlanta Area counties (Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Paulding, and Rockdale), have been designated as severe non-attainment areas for the EPA 1-hour ozone air quality standard. This means that these counties are deemed to have air quality levels worse than the National Air Quality Standard, as defined in the Clean Air Act. Facilities wishing to obtain permits within this area were subject to the Non-Attainment Area New Source Review (NAA NSR) Rule, which defined facilities with a potential to emit 25 tons or more of VOCs or NOX as major sources subject to Title V requirements.

Recently, due to improvements in Metro Atlanta air quality, and the EPA revoking the 1-hour ozone standard, the Metro Atlanta Area is now designated as in attainment, meaning that the federal major source threshold for NOX and VOC emissions is increased to 100 tons per year. However, it is important to remember that specific State rules still contain 25 tons per year limits on NOX and VOC, so sites will still have to demonstrate compliance with these standards using control devices or other approved means of reducing or limiting emissions.

Changes to Air Permit Fees in Georgia

Effective on March 1, 2019, the Georgia Environmental Protection Division (EPD) will begin charging processing fees for new air permit applications in order to cover the costs of the State's air permit activities. These fees do not change or replace existing fee structures, such as annual air permit emission fees, and permit expedited processing fees. The schedule of new permit fees as found in the fee calculation manual ("Procedures for Calculating Air Permit Application and Annual Permit Fees for Calendar Year 2017," dated February 8, 2018), can be found in the table below.

For more information on these updated rules and requirements, or if you would like to discuss how CTI can help your facility maintain compliance with air permitting, please contact us.

| Permit Type | FY 2019 Application fee |
|---|-------------------------|
| Minor Source Permit or Amendment | \$250 |
| Synthetic Minor Source Permit or Amendment | \$1000 |
| Generic (Minor or Synthetic Minor) Permit | \$0 |
| Major Source Permit or Amendment (but not subject to PSD, NSR or 112(g)) | \$2000 |
| Name / Ownership Change | \$250 |
| Permit-by-Rule | \$250 |
| Title V 502(b)(10) Permit Amendment | \$2000 |
| Title V Minor Modification with Construction | \$2000 |
| Title V Minor Modification without Construction | \$2000 |
| Title V Significant Modification with Construction | \$2000 |
| Title V Significant Modification without Construction | \$2000 |
| Title V Renewal | \$0 |
| Off-Permit Change Request | \$0 |
| PSD Permit per 391-3-1-.02(7) | \$7500 |
| Nonattainment New Source Review Permit per 391-3-1-.03(8)(c) 112(g) permit per 391-3-1-.02(9)(b)16. | \$7500 |
| No Permit Required Exemption | \$0 |



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Environmental & Safety Consulting Engineers



ENVIRONMENTAL

- Air Quality Permitting
- Boiler MACT/Area Source
- Environmental Compliance Audit
- Environmental Management Systems
- ISO 14001 Consulting
- Phase I & II Env. Site Assessment
- RCRA Compliance
- SARA Title III - Tier II/Form R
- Spill Prevention (SPCC)
- Stormwater Permitting
- Wastewater Permitting

COMBUSTIBLE DUST

- Combustible Dust Hazard Analysis
- Dust Sampling and Analysis
- Explosion Protection Design
- Hazardous Location Determination
- NFPA & OSHA Compliance Review

PROCESS SAFETY

- Emergency Preparedness & Planning
- Employee Training
- Management of Change
- Process Hazard Analysis
- PSM and RMP Audit
- PSM Program Development
- RMP Development & Submission

OCCUPATIONAL HEALTH & SAFETY

- Confined Space Entry Procedures
- Industrial Hygiene/Indoor Air Quality
- Job Hazard Analysis (JHA)
- Machine Guarding Risk Assessment And Evaluation
- Machine Specific Lockout/Tagout Procedures
- Noise Exposure Monitoring
- Occupational Air Exposure Monitoring
- OSHA Compliance Audits & Mock OSHA Inspections
- OSHA Required Safety Training
- Robot Risk Assessment
- Safety Policies, Procedures, and Programs

News You Can Use

- CTI is excited to announce a strategic partnership with CST Industries an Fike to assist facilities that store bulk solids to identify and mitigate combustible dust hazards. Look on our blog for our official press release and information on our affiliates.



- Check out our webinar on identifying and managing the hazards of combustible dust. <https://goo.gl/1Nyjma>
- CTI welcomes new members to our family.

Look for more info for these stories on our news blog, conversiontechnology.com/blog