

THE NATIONAL LAW REVIEW

OSHA Releases New Silica FAQs for General Industry

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On January 23, 2019, the U.S. Occupational Health and Safety Administration (OSHA) released a new set of 64 [Frequently Asked Questions \(FAQs\)](#) for its Respirable Crystalline Silica for General Industry (silica standard) to provide further guidance to employers and employees about the silica standard's requirements. The silica standard took effect on June 23, 2016, and the compliance deadline for general industry was June 23, 2018.

The silica standard establishes a permissible exposure limit (PEL) of 50 $\mu\text{g}/\text{m}^3$ as an 8-hour time-weighted average (TWA), and an action level of 25 $\mu\text{g}/\text{m}^3$, calculated as an 8-hour TWA. Employers must ensure that employees are not exposed to respirable crystalline silica (RCS) above the PEL. Employers must perform exposure assessments of each employee who is or may reasonably be expected to be exposed to RCS at or above the action level, and provide medical surveillance for employees who are exposed to RCS at or above the action level for 30 or more days per year. Employers must also comply with various ancillary requirements that include establishing regulated areas, providing respiratory protection, housekeeping, training, hazard communication, and medical surveillance.

The silica standard does not apply to agricultural operators, exposures that result from the processing of sorptive clays, or construction work. OSHA published [separate FAQs](#) for the construction industry in August 2018.

The standard also does not apply to employers who have objective data demonstrating that employee exposure will remain below the action level under foreseeable conditions.

Finally, the standard does not apply if 1) the task performed is indistinguishable from a construction task in Table 1 of the silica construction standard, 2) the task will not be performed regularly in the same environment and conditions, and 3) the employer complies with the requirements of the construction standard.

The FAQs for the silica general industry standard address various aspects of the standard, including:

- Its scope and application
- Definitions
- Exposure assessments
- Regulated areas
- Methods of compliance
- Written exposure control plans
- Housekeeping
- Medical surveillance
- Hazard communication
- Recordkeeping
- Temporary employees

These FAQs were not developed through rulemaking and, therefore, do not amend the silica standard. However, under current administrative law, to the extent that they address an area of ambiguity, they would be viewed as OSHA's enforcement position and entitled to deference in any enforcement proceeding. To the extent that they do not address an area of ambiguity, the FAQs should simply be restating previously-issued information. Employers should review these FAQs to improve their understanding of their compliance obligations under the silica standard.



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