

CALIFORNIA INDUSTRIAL HYGIENE COUNCIL

*Advancing public policy to improve the health and safety
of workers and the community.*

August 25, 2023

Via email: RS@dir.ca.gov

Eric Berg
Deputy Chief of Health
Cal/OSHA
Oakland, CA

Subject: Comments on Proposed Silica Emergency Temporary Standard
(new requirements in 8 CCR 5204)

Dear Mr. Berg:

The California Industrial Hygiene Council (CIHC) appreciates the opportunity to comment on the proposed new requirements in 8 CCR 5204, specifically as the Silica Emergency Temporary Standard (ETS) regulation. We appreciate the enforcement challenges this issue presents.

CIHC represents occupational and environmental health professionals in California to advance public policy for the improvement of the health and safety of workers and the community.

Exposure to respirable crystalline silica has centuries old, well-documented potential adverse health effects, in particular various types of silicosis. Control of exposure is critical. CIHC understands that the proposed ETS requirements are intended to ensure that employers with fabrication operations using engineered stone are implementing protective measures to control the impact on workers. The goal with these requirements needs to assure addressing effective exposure controls that can be consistently and correctly implemented.

CIHC is concerned that even with additional requirements for fabrication activities with engineered stone, there is not going to be sufficient impact to lessen the clearly serious exposures to workers in this industry without enhanced enforcement and extensive outreach for training and education of both employers and workers.

CIHC has the following specific comments on proposed requirements:

Definitions – High exposure trigger task -- What's the basis for these percentages?
Recommend using the old approach to calculating a PEL based on %SiO₂ in the source material. For mg/m³, the calculation would be current RCS PEL / %SiO₂ + 2. The potential issue with this approach is whether the analytical methods detection limits are sensitive enough to determine compliance with a PEL obtained by this method, especially with the resulting PELs that would apply to the higher percentage source materials.

Supervising physician – Disagree with physician being responsible for compliance with ALL medical program requirements. Compliance is an employer responsibility.

Suspected silicosis – What’s the basis for seven as the number of days? Given that the initial symptoms are relatively non-specific, a longer period of time, such as 14 days or 21 days without symptoms resolving. Some initial symptoms are not unlike the effects of the common cold, influenza, RSV, COVID, and other infectious diseases that affect the respiratory system, and can take 2 – 3 weeks to resolve.

(f)(2)(D) and (b) Negative pressure enclosure (NPE) definition item (E) need consistent language regarding HEPA filter and collection device.

(f)(2)(F)(1) exception – This exception does not seem consistent with the statement in (f)(2).

(f)(2)(G) – This does not seem consistent with (f)(2)(F)(1) which addresses local exhaust ventilation systems.

(f)(3)(A) There is no mention in the written plan of including a required training plan for employees on how to protect themselves and how to perform tasks safely using required techniques.

(f)(3)(D) – What’s the incentive to do exposure measurements when requirements for high-exposure trigger tasks kick in no matter what the results of the measurements are? We need clarity on the incentive for employers to implement engineering control measures and confirm the effectiveness through exposure measurements to have relief from other requirements in the ETS.

(g)(3) – Why is respiratory protection being mandated when exposure is controlled to below the action level as demonstrated by air sampling results? This is counter to standard practice.

(g)(3)(B) – Use of respirators is typically not physically or medically compatible or allowed by someone who has been diagnosed with reduced lung function based on medical clearance exam protocol for respirator use.

(h)(3) – Disagree – this subsection should apply to all operations for general housekeeping requirements.

(i)(3)(A) – Replace “ensure” with “make available”.

(j) – How is medical removal relevant here? What is the basis for medical removal? Silicosis is not a disease that is reversible or treatable unlike elevated blood lead levels. The best one can hope for is that it doesn’t progress. What impact would medical removal have on silicosis since medical removal is a temporary status? If employment protections are the point of this subsection, then call it something else; for example, if an employee has to take temporary disability, then.....

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(k)(3) There should be a specific training provision to instruct and ensure employees know how to protect themselves by demonstrating proper safe techniques for the tasks to be performed. There is no mention of any specific training requirements, just information. Recommend an appendix to address training requirements similar to the approach that was taken for wildfire smoke protection training.

CIHC appreciates the opportunity to have participated in the advisory committee for this proposed regulation. CIHC would also step up to assist with outreach for employer and worker education and training if such opportunities are available.

Thank you for your time and consideration. If needed, please contact me on behalf of the CIHC at (916) 712-4547 or kwa-sacramento@att.net.

Very truly yours,
California Industrial Hygiene Council



Pamela Murcell, MS, CIH
President, CIHC