



VEOLIA NORTH AMERICA - INDUSTRIAL BUSINESS REGULATORY UPDATE - March 2016

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No Miscellaneous Updates for March 2016

A. EPA Accidental Release Prevention Requirements: Risk Management Programs under the Clean Air Act; Proposed Rule

On March 14, 2016, the Environmental Protection Agency (EPA) published a proposed rule (81 FR 13637-13712) that would amend the Clean Air Act (CAA) Risk Management Program (RMP) regulations.

Background

On August 1, 2013, President Obama issued Executive Order 13650, “Improving Chemical Facility Safety and Security” in response to catastrophic chemical facility incidents that had occurred in the United States. Section 6(a)(i) of the Executive Order requires Federal Agencies to develop options for improvements to existing “risk management practices.” As a first step, EPA published a “Request for Information (RFI)” notice in the Federal Register on July 31, 2014 (79 FR 44604). The amendments in this proposed rule were developed after EPA reviewed the existing Risk Management Program and information gathered from the RFI and Executive Order listening sessions.

Applicability

This proposed rule would apply to stationary sources (facilities) that hold more than a threshold quantity (TQ) of a regulated substance in a process that is subject to the chemical accident prevention requirements in 40 CFR Part 68. Following is a list of some, but not all, of the regulated industrial sectors:

1. Agricultural Chemical Distributors
2. Beverage and Food Manufacturing
3. Chemical and Allied Products Merchant Wholesalers
4. Chemical Manufacturing
5. Oil and Gas Extraction
6. Paper Manufacturing
7. Petroleum and Coal Products Manufacturing
8. Utilities
9. Water/Wastewater Treatment Systems

Program Levels

The RMP rule establishes three “program levels” for regulated processes:

1. Program 1

Applies to processes that would not affect the public in the event of a worst-case release and that have had no accidents with specific off-site consequences in the last five years. These facilities must submit an RMP and coordinate with local response agencies but have limited hazardous assessment requirements.

2. Program 2

Applies to facilities that do not qualify for Programs 1 or 3. These facilities are subject to streamlined prevention program requirements that include: safety information, hazard review, operating procedures, training, maintenance, compliance audits, and incident investigation. These facilities are also subject to additional hazard assessment, management, and emergency response requirements.

3. Program 3

Applies to processes that are not eligible for Program 1 and are subject to either OSHA's Process Safety Management (PSM) standard or are classified in one of ten specified industry sectors identified by their North American Industrial Classification System (NAICS) codes listed in 40 CFR 68.10(d)(1). The Industry Sectors and NAICS Codes are:

1. Pulp Mills (32211)
2. Petroleum Refineries (32411)
3. Petrochemical Manufacturing (32511)
4. Alkalies and Chlorine Manufacturing (325181)
5. All Other Basic Inorganic Chemical Manufacturing (325188)
6. Cyclic Crude and Intermediate Manufacturing (325192)
7. All Other Basic Chemical Manufacturing (325199)
8. Plastics Material and Resin Manufacturing (325211)
9. Nitrogenous Fertilizer Manufacturing (325311)
10. Pesticide and Other Agricultural Chemicals Manufacturing (32532)

These facilities are subject to elements nearly identical to OSHA's PSM standard's accident prevention program. The prevention program includes: process safety information (PSI), process hazard analysis (PHA), operating procedures, training, mechanical integrity, management of change (MOC), pre-startup review, compliance audits, incident investigations, employee participation, hot work permits and contractor requirements.

Summary

The most significant proposed amendments to the Accidental Release Prevention Requirements in the Risk Management Programs are:

1. All facilities with Program 2 or 3 processes would be required to conduct a root cause analysis as part of an incident investigation of a catastrophic release or an incident that could have reasonably resulted in a catastrophic release.
2. Regulated Facilities with Program 2 or 3 processes would be required to contract with an independent third-party to conduct a compliance audit after the facility has a reportable release.
3. Owners or operators of facilities with Program 3 regulated process that are identified under NAICS Codes 322 (paper manufacturing), 324 (petroleum and coal products manufacturing, and 325 (chemical manufacturing) would be required to conduct a safer technology and alternatives analysis (STAA) including evaluating the feasibility of inherently safer technology (IST) during the five year update of the Process Hazard Analysis (PHA).
4. Facilities with Program 2 or 3 processes would be required to coordinate with local emergency response agencies at least once per year to ensure that resources and capabilities are in place to respond to an accidental release of a regulated substance.
5. All facilities with Program 2 or 3 processes would be required to conduct notification exercises annually to ensure that their emergency contact information is accurate and complete.
6. Facilities subject to the emergency response program requirements of Subpart E (for responding facilities) must conduct a full field exercise at least once every five years and a tabletop exercise annually. Facilities that have an RMP reportable accident would be required to conduct a full field exercise within a year of the accident.
7. Require all facilities to provide certain information to the public through a facility Web Site. If the company does not have a Web Site this information can be made available at public libraries or government offices.
8. Facilities with Program 2 or 3 processes would be required, upon request, to provide information regarding compliance audits and emergency response exercises to the Local Emergency Planning Committee (LEPC).

The proposed rule also includes a proposed definition for catastrophic release:

Catastrophic Release – means a major uncontrolled emission, fire, or explosion, involving one or more regulated substances that results in deaths, injuries, or significant property damage on-site, or known off-site deaths, injuries, evacuations, sheltering in place, property damage, or environmental damage.

Comments Due

Comments on this proposed rule must be submitted to EPA on or before May 13, 2016.

Link

The link below will allow you to view/print this proposed rule.

<https://www.gpo.gov/fdsys/pkg/FR-2016-03-14/pdf/2016-05191.pdf>

B. EPA Administrator Selects Experts to Advise EPA on the Development of a National Electronic Manifest System

On March 17, 2016, EPA announced the selection of members who will serve on the Hazardous Waste Electronic Manifest Advisory Board. The Advisory Board members will provide input on the development and operation of an electronic system for tracking hazardous waste shipments. The Advisory Board is composed of the EPA Administrator (or designee) and eight members from the technology sector, state agencies, and the regulated industry. The eight Advisory Board members are:

1. Tom Baker - Senior Director, Environment and Transportation Department, Veolia North America
2. Joshua Burman – Minnesota Pollution Control Agency
3. Michael Hurley – Massachusetts Department of Environmental Protection
4. Raymond Lewis – Co-founder, Wastebits
5. Raj Paul – Vice President, Automotive and Emerging Technologies, Lochbridge
6. John Ridgway – Program Manager, Washington State Department of Ecology
7. Cynthia Walczak – Environmental Project Manager, MPS Group
8. Justin Wilson – Senior Manager, Wal-Mart Stores, Inc.

EPA will announce the Advisory Board meetings via its website as well as in a Federal Register notice. All Advisory Board meetings will be open to the public.

Link

The link below will allow you to view/print EPA's press release announcing the E-Manifest Advisory Board Members.

<https://yosemite.epa.gov/opa/admpress.nsf/bd4379a92ceceeac8525735900400c27/b6a27a64092b0f6385257f79005ba209!OpenDocument>

C. New York Solid Waste Management Facilities; Comprehensive Revisions, Enhancements, and Structure Changes; Proposed Rule

On February 29, 2016, the New York Department of Environmental Conservation (NYDEC) published a proposed rule to update regulations on waste transport, illegal dumping of construction and demolition debris, large mulch facilities, clarify a state ban on the use of oil and gas brine from fracking operations for salting roads, and require municipal solid waste facilities to install fixed radiation detectors.

The proposed revision of most interest to Veolia is a proposal to allow solid waste intransit holding times for up to ten days. Currently, solid wastes are limited to a 5-day intransit timeframe.

Public Hearings and Public Workshops

NYDEC is holding 18 public workshops beginning on April 13, 2016 and running through May 12, 2016. Following the workshops, NYDEC will hold three public hearings on June 2, 6, and 7, 2016.

Comments Due

Comments on this proposed rule must be submitted to NYDEC by July 15, 2016.

Link

The link below will allow you to view/print these proposed rules.

<http://www.dec.ny.gov/regulations/81768.html>

D. DOT/PHMSA Hazardous Materials: Reverse Logistics (RRR) (HM-253); Final Rule

On March 31, 2016, the Department of Transportation, Pipeline and Hazardous Materials Safety Administration (PHMSA) published a final rule (81 FR 18527-18541) adopting regulatory amendments applicable to the reverse logistics shipments of certain hazardous materials by highway transportation.

Summary

This final rule revises the Hazardous Materials Regulations (HMR) to include a definition of “reverse logistics,” creates a new section (49 CFR 173.157) that includes specific reverse distribution logistics regulations, and expands an existing exception for the return shipments of used automobile batteries transported between a retail facility and a recycling center.

The following amendments are included in this final rule:

1. Include a Definition of “Reverse Logistics” in 49 CFR 171.8

Reverse logistics means the process of offering for transport or transporting by motor vehicle goods from a retail store for return to its manufacturer, supplier, or distribution facility for the purpose of capturing value (e.g., to receive manufacturer’s credit), recall, replacement, recycling or similar reason. This definition does not include materials that meet the definition of a hazardous waste as defined in this section.

2. Hazard Classes and Divisions of Consumer Products Approved

The following hazard classifications are authorized for shipment under the reverse logistics exception:

- a. Divisions 1.4G or 1.4S consumer fireworks, 1.4G ammunition, 1.4G and 1.4S flares
- b. Division 2.1 Cylinders
- c. Division 2.2 Aerosols
- d. Class 3 Flammables
- e. Division 4.1 (not including self-reactives)
- f. Division 5.1 Oxidizers (PG II and III only)
- g. Division 6.1 Toxics (PG II and III only) TIH materials are not authorized
- h. Class 8 Corrosives (PG II and III only)
- i. Class 9 Misc. (Lithium Batteries are not authorized)

3. Packaging

PHMSA is requiring reduced packaging for reverse logistics materials in that the package only needs to be closed in a manner that leakage will not occur under normal conditions of transportation. Therefore retail items may be transported in their original packaging or a package of equal or greater strength if the original packaging is unavailable.

4. Hazard Communication

PHMSA is adopting an exception to the Hazard Communication Requirements under 49 CFR 173.157(d) for shipments transported by private carriers only. Hazardous materials shipped under this exception may be marked “REVERSE LOGISTICS – HIGHWAY TRANSPORT ONLY – UNDER 49 CFR 173.157” as an alternative to the limited quantity marking requirements in 49 CFR 172.315(a). The size marking requirements in 49 CFR 172.301(a)(1) apply.

5. Training

Employees shipping hazardous materials under the reverse logistics exception are not required to be fully trained under 49 CFR 172, Subpart H. The reduced reverse logistics training requirements are included in 49 CFR 173.157(e)

6. Battery Recycling

49 CFR 173.159(e) has been revised to allow for the pick-up of used automotive lead-acid batteries from multiple locations for the purposes of recycling subject to the following conditions:

- a. Any other material loaded in the same vehicle must be blocked, braced, or otherwise secured to prevent contact with or damage to the batteries. In addition, batteries on pallets, must be stacked to not cause damage to another pallet in transportation:
- b. A carrier may accept shipments of batteries from multiple locations for the purpose of consolidating shipments of batteries for recycling: and
- c. Shipments made under this paragraph are subject to the incident reporting requirements in 49 CFR 171.15.

Effective Date

This final rule became effective on March 31, 2016.

Link

The link below will allow you to view/print this final rule.

<https://www.gpo.gov/fdsys/pkg/FR-2016-03-31/pdf/2016-07199.pdf>

E. DOT/FMCSA Minimum Training Requirements for Entry-Level Commercial Motor Vehicle Operators; Proposed Rule

On March 7, 2016, the Department of Transportation, Federal Motor Carrier Safety Administration (FMCSA) published a proposed rule (11943-11986) that would create new training standards for certain individuals applying for their initial commercial driver’s license (CDL); an upgrade of their CDL (e.g., a Class B CDL holder seeking a Class A CDL); or a hazardous materials, passenger, or school bus endorsement for their license; and a “refresher” training curriculum.

Summary

The individuals included above would be subject to the proposed entry-level training requirements and must complete a course of instruction provided by an entity that: meets the minimum qualification for training providers; covers the curriculum; is listed on FMCSA's proposed Training Provider Registry; and submits electronically to FMCSA the training certificate for each individual who completes the training. FMCSA is proposing to include these regulations in a revised Subpart F to 49 CFR Part 380.

Overview of Major Provisions

The proposed rule would primarily revise 49 CFR 380, Special Training Requirements and would require an individual who must complete the CDL skills test requirements, defined as an "Entry-Level Driver," to receive mandatory training. The proposed rule applies to persons who drive, or intend to drive, CMVs in either interstate or intrastate commerce.

Beginning on the compliance date of the rule, no "Entry-Level Driver" may take a CDL skills test to receive a Class A CDL, Class B CDL, Passenger Bus endorsement, School Bus endorsement, or Hazardous Materials endorsement unless he/she has successfully completed a training program that (1) is provided by a Training Provider who appears on FMCSA's Training Provider Registry (TPR), and (2) is appropriate to the license/endorsement for which that person is applying.

The proposed curricula for Class A and Class B training programs is subdivided into theory and behind the wheel (BTW) segments, with BTW driving occurring both on a "range" (any protected area not involving a public road) or a public road. Theory and BTW training may be delivered by separate providers. Driver-trainees who successfully complete the theory portion of the training would be required to complete the skills portion within 360 days.

Theory:

Theory may be taught either online or in a classroom. The training provider must administer a written knowledge assessment, which will provide a satisfactory test of competence in the area of instruction.

Behind the wheel (BTW) Instruction (Range and Road):

Class A CDL trainees would be required to receive a minimum of 30 hours of BTW with a minimum of 10 hours spent on a "range" (which may be any suitable area not on public roads), and 10 hours driving on a public road or 10 public road trips (no less than 50 minutes each). A 50-minute training session ("academic hour") would count as one hour for purposes of this requirement. The training provider will determine how the remaining 10 hours of BTW training will be spent (*i.e.*, whether on a range or public road, or some combination of the two).

Class B CDL trainees would be required to receive a minimum of 15 hours of BTW (range and public road) driving, with a minimum of 7 hours of road driving. A 50-minute training session ("academic hour") would count as one hour under this requirement. Training providers may determine how the remaining 8 hours of BTW training are spent, as long as the range curriculum is covered.

These proposed requirements would apply to individuals who obtain their CLP on or after the compliance date. Any individual who fails to obtain the CDL within 360 days after obtaining a CLP would be required to complete a full ELDT course again following application for a new CLP.

Refresher Training:

An individual holding a CDL that has been canceled or revoked by the State of issuance and would be required to retake a State administered CDL exam would not be required to retake a full ELDT course as a condition of taking such exam. However, any individual whose CDL has been canceled or revoked for a highway-safety related reason would be required to complete refresher training from a provider listed on the

TPR prior to retaking the State CDL exam to reinstate his or her CDL Class A or Class B license. Once the refresher training is completed, the training certificate would be transmitted from the training provider to FMCSA, and the Agency would electronically transmit the certificate to the SDLA via the Commercial Driver's License Information System (CDLIS). If adopted, the final rule would include a requirement for SDLAs to administer a CDL skills test to these individuals, but only if there is an electronic training certificate on file with the SDLA.

FMCSA Registered Training Provider

To become an FMCSA-registered training provider, a person or institution would have to meet the applicable FMCSA's Eligibility Requirements for Training Providers, and complete and submit (online) a Training Provider Identification Report affirming under penalties of perjury that such provider will teach the FMCSA-prescribed curriculum that is appropriate for that license or endorsement and that such provider meets the eligibility requirements. Training providers, must, at a minimum, offer and teach a training curriculum that meets all FMCSA standards for entry-level drivers and must also meet requirements related to: course administration, qualifications for instructional personnel, assessments, issuance of training certificates, and training vehicles (*i.e.*, equipment). Training providers that meet these requirements would be eligible for listing on FMCSA's TPR and must continue to meet the eligibility requirements in order to stay listed on the TPR. Training providers must also attest that they meet the specified requirements, and in the event of an FMCSA audit or investigation of the provider, must supply documentary evidence to verify their compliance.

Compliance Date

The proposed compliance date for this rule is 3 years after the effective date of the final rule, which would provide the States with sufficient time to pass necessary implementing legislation, to modify their information systems to begin recording the training provider's certificate information on the Commercial Driver's License Information System (CDLIS) driver record, and to begin making that information available from the CDLIS driver record. This proposed phase-in period would also allow time for the driver training industry to develop and begin offering training programs that meet the eligibility requirements for listing on the TPR.

Class A and B CDL Training Curriculum

Class A and B CDL applicants must successfully complete an approved training curriculum that covers the following Theory, Range and Public Road components:

Theory

The following components would be covered on-line or in a classroom like setting. Training providers would be required to use assessments to demonstrate driver-trainees' proficiency in the knowledge objectives in the theory portion. The driver-trainee must receive an overall score of 80% or above on the assessment.

Basic Operation

1. Orientation
2. Control Systems/Dashboard
3. Pre and Post-Trip Inspections
4. Basic Vehicular Control and Handling
5. Shifting/Operating Transmissions
6. Backing and Docking
7. Coupling and Uncoupling (Class A CDL Only)
8. Safe Operating Procedures
 - a. Visual Search for Potential Hazards and Critical Objects
 - b. Vehicle Communications including proper use of headlights, turn signals, four-way flashers and horns, and eye contact

- c. Speed Management
- d. Space Management
- e. Night Operation
- f. Extreme Driving Conditions
- 9. Advanced Operating Practices
 - a. Hazard Perception
 - b. Distracted Driving
 - c. Emergency Maneuvers and Skid Avoidance
 - d. Skid Control and Recovery
 - e. Railroad-Highway Grade Crossings
 - f. Vehicle Systems and Reporting Malfunctions
 - g. Identification and Diagnosis of Malfunctions, Including OOS Violations
 - h. Maintenance (Preventative Maintenance and Simple Emergency Repairs)
 - i. Non-Vehicle Activities
- 10. Handling and Documenting Cargo
- 11. Environmental Compliance Issues
- 12. Hours of Service Requirements
- 13. Fatigue and Wellness Awareness
- 14. Post-Crash Procedures
- 15. External Communications – Interpersonal communication techniques/skills for interacting with enforcement officials including during roadside inspections.
- 16. Whistleblower / Coercion
- 17. Trip Planning
- 18. Drugs/Alcohol
- 19. Medical Requirements

Range

Driving exercises related to basic maneuvers necessary to operate the vehicle safely. Activities in this unit would take place on a driving range and would cover the following:

- 1. Vehicle Inspection (Pre-Trip / Enroute / Post-Trip)
- 2. Straight Line Backing
- 3. Alley Dock Backing (45/90 Degree)
- 4. Off-Set Backing
- 5. Parallel Parking Blind Side
- 6. Parallel Parking Sight Side
- 7. Coupling and Uncoupling (CDL A Only)

Public Road

The instructor would engage in active two-way communication with the driver-trainee during all active training sessions and evaluate the driving competence of the trainees during all public road training. Training instructors would evaluate a driver-trainee's proficiency in BTW driving skills on a public road in a vehicle of the class (A or B) and type that the driver-trainees will operate for the CDL skills test. The following components would be discussed during public road training or simulated, but not necessarily performed.

- 1. Vehicle Controls Including : Left Turns, Right Turns, Lane Changes, Curves at Highway Speeds
- 2. Shifting/Transmission
- 3. Communications/Signaling
- 4. Visual Search
- 5. Speed and Space Management
- 6. Safe Driver Behavior

7. Hours of Service
8. Hazard Perception
9. Railroad-Highway Grad Crossing
10. Night Operation
11. Extreme Driving Conditions
12. Emergency Maneuvers/Skid Avoidance
13. Skid Control and Recovery

Hazmat Endorsement Training Curriculum

The proposed section for the training requirements and curriculum for a CMV driving seeking a hazardous materials (H) endorsement would be adopted into §380.623. As proposed, there is no minimum number of instruction hours for this training. This proposed training would be theory-only because the current CDL requirement to obtain an H endorsement does not include a skills test. The following components would be required to be covered during Theory instruction:

1. Basic Introductory HM Requirements
2. Operational HM Requirements
3. Reporting HM Crashes and Releases
4. Tunnels and Railroad-Highway Grade Crossing Requirements
5. Loading and Unloading HM
6. HM on Passenger Vehicles
7. Bulk Packages
8. Operating Emergency Equipment
9. Emergency Response Procedures
10. Engine Fueling
11. Tire Check
12. Routes and Route Planning
13. Hazardous Materials Safety Permits

Verification of Compliance

After an individual successfully completes training by a provider on the TPR, that provider would be required, by close of the next business day after the driver-trainee completes the training, to upload the training certification to the FMCSA. Prior to administering the skills test for a CDL, the SDLA would be required to verify on the CDLIS that the driver applicant successfully completed the required entry-level driver training as required by the regulations.

Comments Due

Comments on this proposed rule must be submitted to FMCSA on or before April 6, 2016.

Link

The link below will allow you to view/print this proposed rule.

<https://www.gpo.gov/fdsys/pkg/FR-2016-03-07/pdf/2016-03869.pdf>

F. DOT/FMCSA Notification of Changes to the Definition of a High Risk Motor Carrier and Associated Investigation Procedures

On March 7, 2016, the Department of Transportation; Federal Motor Carrier Safety Administration (FMCSA) published a Notice of Definition and Procedural Changes (81 FR 11875-11876) announcing a new High Risk Motor Carrier definition and associated investigative procedural changes designed to

improve the carrier prioritization process to enable safety investigators to take more immediate action against carriers with the highest crash risk.

Current Method Used to Identify High Risk Carriers

Currently, FMCSA uses the information provided through the Compliance, Safety, Accountability (CSA) system to identify high risk carriers for on-site investigations. Non-passenger carriers that meet or exceed specific Safety Measurement System (SMS) Behavior Analysis and Safety Improvement Category (BASIC) intervention thresholds for two consecutive months must receive an on-site investigation within 12 months unless they received an on-site investigation within the previous 24 months. Carriers that meet these criteria are considered “Mandatory” for prioritization.

New Definition of High Risk Carrier and Selection Process

As part of FMCSA’s continuing efforts to improve the CSA, the Agency is improving the current carrier prioritization process to enable safety investigators to take more immediate action against carriers with the highest crash risk.

FMCSA will no longer use the term “Mandatory” to identify carriers for investigation prioritization. Alternatively, FMCSA is adopting a new High Risk motor carrier definition. Under the new definition, non-passenger carriers are considered High Risk if they have two or more of the following BASICS at or above the 90th percentile for two consecutive months and they have not received an on-site investigation in the previous 18 months: Unsafe Driving, Crash Indicator, Hours of Service Compliance, and Vehicle Maintenance.

Carriers meeting the definition of High Risk are considered to have the highest crash risk thereby presenting the greatest risk to public safety and will be the Agency’s investigative priority.

Carriers with poor safety performance that will no longer fall under the High Risk definition will be identified and FMCSA will continue to monitor them using dynamic risk management tools. The term dynamic risk management refers to the techniques and process that FMCSA managers will use to evaluate the safety performance carriers on the Moderate-Risk, Risk and Monitor lists, and to reprioritize these carriers as needed. Safety performance data analysis tools have been developed to support the dynamic management decision-making process.

The changes announced in this Notice will NOT impact a carrier’s safety fitness rating, authority to operate, or SMS percentiles and will not change the SMS methodology or how FMCSA makes enforcement decisions.

Comments Due

Comments on this notice must be submitted to FMCSA on or before May 6, 2016.

Link

The link below will allow you to view/print this notice of definition and procedural changes.

<https://www.gpo.gov/fdsys/pkg/FR-2016-03-07/pdf/2016-04972.pdf>

G. OSHA Occupational Exposure to Respirable Crystalline Silica; Final Rule

On March 25, 2016, the Occupational Safety and Health Administration (OSHA) published a final rule (81 FR 16285-16890) amending the standards for occupational exposure to respirable crystalline silica.

Background

OSHA has determined that employees exposed to respirable crystalline silica at the current permissible exposure limit (PEL) have an increased risk of lung cancer mortality, silicosis mortality, and morbidity. Occupational exposure to respirable crystalline silica also results in increased risk of death from other non-malignant respiratory diseases including chronic obstructive pulmonary disease (COPD). OSHA believes there remains a significant risk with the newly established PEL but believes that it is appropriate because it is the lowest level feasible for all affected industries.

Summary

This final rule establishes a new PEL of 50 micrograms of respirable crystalline silica per cubic meter of air (50 $\mu\text{g}/\text{m}^3$) as an 8-hour time-weighted average (TWA) in all industries covered by this final rule. The final rule also includes requirements to protect employees that are detailed in the final rule under the following headings:

1. Scope
2. Definitions
3. Specific Exposure Control Methods
4. Alternative Exposure Control Methods
5. Permissible Exposure Limit
6. Exposure Assessment
7. Regulated Areas
8. Methods of Compliance
9. Respiratory Protection
10. Housekeeping
11. Written Exposure Control Plan
12. Medical Surveillance
13. Communication of Respirable Crystalline Silica Hazards to Employees
14. Recordkeeping
15. Effective Dates

The final rule includes several amendments from the proposed rule. These amendments are discussed briefly below:

1. Scope

The final rule excludes exposures in general industry where the employer has data demonstrating that employee exposure to respirable crystalline silica is below 25 $\mu\text{g}/\text{m}^3$ as an 8-hour TWA.

2. Protective Clothing

The final rule does not include requirements for the use of protective clothing to prevent exposure to respirable crystalline silica.

3. Housekeeping

The final rule allows for the use of compressed air, dry sweeping, and dry brushing in certain limited situations.

4. Written Exposure Control Plan

Affected companies must develop a written exposure control plan.

5. Medical Surveillance

Employers must make medical surveillance available to all employees exposed to respirable crystalline silica at or above an action level of 25 µg/m³ as an 8-hour TWA for 30 or more days per year. The employer must obtain a written medical opinion from physicians or other licensed health care professionals for medical examinations that includes the date of the examination, a statement that the examination meets the requirements of the standard, and any recommended limitations on the employee's use of a respirator. A separate written medical report must be provided to the employee.

Effective Dates

This final rule will become effective on June 23, 2016. All requirements in the final rule become effective on June 23, 2018 with the exception of medical surveillance requirements. The medical surveillance requirements become effective on June 23, 2018 for employees exposed above 50 µg/m³ and on June 23, 2020 for employees exposed above 25 µg/m³.

Link

The link below will allow you to view/print this final rule.

<https://www.gpo.gov/fdsys/pkg/FR-2016-03-25/pdf/2016-04800.pdf>

H. OSHA Updating OSHA Standards Based on National Consensus Standards; Eye and Face Protection; Final Rule

On March 25, 2016, the Occupational Safety and Health Administration (OSHA) published a final rule (81 FR 16085-16093) updating the general industry, shipyard employment, marine terminal, longshoring, and construction eye and face protection standards by incorporating by reference the three most recent versions of the American National Standards Institute (ANSI) Occupational and Educational Eye and Face Protection standards.

Summary

The original OSHA standards addressing eye and face protection was adopted in 1971 and have been amended on numerous occasions, most recently in 2009. The 2009 final rule amendments did not include a reference to the 2010 version of the ANSI Z87.1 standard because it had not yet been published.

On March 13, 2015, OSHA published a notice of proposed rulemaking to update the references in 29 CFR 1910.133(b)(1), 29 CFR 1915.153(b)(1), 29 CFR 1917.91(a)(1)(i), and 29 CFR 1918.101(a)(1)(i) to include ANSI Z87.1, the most recent version of the standard and delete the reference to ANSI Z87.1-1989. The 2010 version of ANSI Z87.1 focuses on hazards such as droplet and splash, impact, optical radiation, dust, fine dust and mist, and specifies the type of equipment needed to protect employees from these hazards. The 2010 standard also contains performance assessments that are unique to a specific protector configuration such as welding devices or prescription safety eyewear.

OSHA received no significant objections from commenters and is adopting the amendments as proposed.

Effective Date

This final rule will become effective on April 25, 2016.

Link

The link below will allow you to view/print this final rule.

<https://www.gpo.gov/fdsys/pkg/FR-2016-03-25/pdf/2016-06359.pdf>