



COMMONWEALTH of VIRGINIA
DEPARTMENT OF LABOR AND INDUSTRY

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COMMISSIONER

June 14, 2017

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Enforcement of the Crystalline Silica Standard for Construction in Virginia

The Virginia Occupational Safety and Health (VOSH) Program has not delayed the enforcement of the Construction Standard for Crystalline Silica, 1926.1153 (federal OSHA has stayed enforcement of the federal construction standard until September 23, 2017). All obligations under the VOSH standard are set to commence on June 23, 2017 except for requirements for sample analysis in paragraph (d)(2)(v), which commence on June 23, 2018.

Stays of OSHA identical regulations have to be approved by the Virginia Safety and Health Codes Board (16VAC25-60-180), and there was no way under the state Administrative Procedures Act that the Board could have adopted a change in the enforcement date prior to the June 23, 2017 effective date. The earliest possible change to the enforcement date could not have kicked in until August 1, 2017, so VOSH would have been in a position requiring it to enforce the standard between June 23, 2017 and August 1, 2017 when any Board stay could take effect.

We did not think it a good idea to enforce and then not enforce the standard. Beside the potential for confusion, and consequences for the construction bidding process, taking that course would have resulted in disparate treatment of some employers who were subject to citation during the June 23 – August 1 time period versus others VOSH encountered between August 1 and September 23, 2017 who would not have been subject to citation.

National Emphasis Program – Crystalline Silica, is Suspended in Virginia for Construction Inspections opened on or after June 23, 2017

Effective June 23, 2017, VOSH use of the National Emphasis Program (NEP) – Crystalline Silica, VOSH Directive 14-410 is suspended for Construction inspections¹ opened on or on after June 23, 2017, pending revision to reflect the adoption of the new Crystalline Silica Standard. A copy of VOSH Directive 14-410 can be found at:

http://townhall.virginia.gov/L/GetFile.cfm?File=C:\TownHall\docroot\GuidanceDocs\181\GDoc_DOLI_3671_v1.pdf

¹ The National Emphasis Program – Crystalline Silica will remain in place for General Industry inspections.

Inspection Procedures for Silica Inspections in Construction for Inspections opened on or after June 23, 2017

With the suspension of the NEP – Crystalline Silica in Virginia for Construction inspections, VOSH will not be conducting planned Construction inspections directed at exposure to silica.

However, VOSH will continue to respond to silica-related employee complaints, referrals and situations where potential exposure to silica in a construction setting is observed in plain view of VOSH personnel.

VOSH On-Site Consultation Services

As always, we encourage small businesses to take advantage of the Department's free VOSH Consultation Services Division:

The Virginia Department of Labor and Industry offers On-Site Consultation Services to help employers better understand and voluntarily comply with VOSH standards. Priority is given to high hazard workplaces with 250 or fewer employees and all services are offered to employers at no cost. On-Site Consultation Services helps employers identify and correct potential safety and health hazards through walk-through surveys (without citations or penalties), provide abatement advice, provide on-site training, and provide program assistance to develop safety and health programs. Additional information about On-Site Consultation Services can be obtained by contacting the Virginia Department of Labor and Industry office closest to you at www.doli.virginia.gov or by contacting Dennis Edwards, Consultation Program Manager at (804) 786-8707 or Dennis.Edwards@doli.virginia.gov.

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