

<b>PC Portal ID:</b>	D19-02-001	<b>PC Published:</b>	08/22/2019	<b>Request Received:</b>	02/22/2019
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<b>Notes:</b>	None				

**Subject: Silica Exposure Monitoring Options and Clarification**

**Questions:**

I have questions regarding an earlier response from the DOE Response Line Call ID D17-12-003, date received 12-28-2017. The response to Question 1 states: "DOE construction contractors after that date will no longer be able to rely on 29 CFR 1926.1153(c)(1) Table 1 instead of obtaining exposure monitoring data and/or a combination of exposure monitoring data and objective data sufficient to accurately characterize worker exposures...".

It appears that the intent of the response is to communicate that Table 1, which was based on protecting workers to the PEL of 50 µg/m<sup>3</sup>, can no longer be used because the technical amendment to 10 CFR part 851 lowers the silica exposure limit to the 2016 ACGIH TLV of 25 µg/m<sup>3</sup>. However, there's some confusion on what the alternative to Table 1 is. The response references 29 CFR 1926.1153(d)(2), which states in (d)(2)(i): "General. The employer shall assess the exposure of each employee who is or may reasonably be expected to be exposed to respirable crystalline silica at or above the action level in accordance with either the performance option in paragraph (d)(2)(ii) or the scheduled monitoring option in paragraph (d)(2)(iii) of this section. I have the following questions:

- 1) Does "obtaining exposure monitoring data", from the DOE response, refer to the scheduled monitoring option described in (d)(2)(iii)?
- 2) Does "a combination of exposure monitoring data and objective data", from the DOE response, refer to the performance option described in (d)(2)(ii)?
- 3) Assuming the answer to question 2 is affirmative, does DOE intend for DOE construction contractors to obtain both exposure monitoring data and objective data to satisfy the performance-based option?

In reviewing § 1926.1153(d)(2)(ii), it appears the original intent of the standard was to give employers the option to use "any combination of air monitoring data or objective data sufficient to accurately characterize employee exposures to respirable crystalline silica." At face value, it seems that either air monitoring data or objective data could be used to satisfy the performance option.

Moreover, Federal Register Vol. 81, No. 58, states on page 16760: "This restructuring emphasizes the performance option in order to provide additional flexibility for employers who are able to characterize employee exposures through alternative methods". Thank you for your consideration of my questions.

**Policy Clarifications:**

- 1) Obtaining “Exposure monitoring data” does not necessarily refer to the scheduled monitoring option in § 1926.1153(d)(2)(iii), although contractors may use the scheduled monitoring option to obtain data for worker exposures to respirable crystalline silica. It is acceptable for contractors to develop a revised Table 1 by documenting specified exposure control methods that accounts for the lower American Conference of Governmental Industrial Hygienist (ACGIH) Threshold Limit Value (TLV)<sup>®</sup> of 25 µg/m<sup>3</sup>.
- 2) Yes, in reference to the statement “DOE construction contractors after that date will no longer be able to rely on § 1926.1153(c)(1) Table 1 instead of obtaining exposure monitoring data and/or a combination of exposure monitoring data and objective data sufficient to accurately characterize worker exposures” refers to the performance option described in § 1926.1153(d)(2)(ii). The performance option is provided to allow flexibility in how contractors demonstrate worker exposures to respirable crystalline silica.
- 3) DOE contractors may use any combination of air monitoring data and objective data that accurately characterizes worker exposures. If objective data alone accurately reflects worker exposures to crystalline silica, then this would be acceptable.

**Applicable Regulations:**

- 1) 10 CFR 851.23, *Safety and health standards*
- 2) 29 CFR 1926.1153, *Respirable crystalline silica*

**Additional Information:**

None

**Concurrence:**

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**Approval:**

**Approved August 22, 2019 by James R. Dillard, Director, Worker Safety and Health Policy received non-substantive enhancements during triennial review on May 31, 2024.**

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