Feature Story

OSHA Announces Long-Delayed $637 Million Proposed Rule Limiting Worker Exposure to Crystalline Silica

The Occupational Safety and Health Administration announced its forthcoming proposed rule limiting occupational exposure to respirable crystalline silica, which had been under review at the Office of Information and Regulatory Affairs (OIRA) for 922 days (since February 14, 2011). Crystalline silica has a wide variety of uses in industry (for example, the sand and gravel used in road building and concrete construction). At current exposure levels, “employees exposed to respirable crystalline silica face a significant risk to their health” which will be reduced by the proposed standards.

“As shown, the proposed rule is estimated to prevent 688 fatalities and 1,585 silica-related illnesses annually once it is fully effective, and the estimated cost of the rule is $637 million annually. Also as shown in Table SI-1, the discounted monetized benefits of the proposed rule are estimated to be $5.3 billion annually, and the proposed rule is estimated to generate net benefits of $4.6 billion annually. These estimates are for informational purposes only and have not been used by OSHA as the basis for its decision concerning the choice of a PEL or of other ancillary requirements for this proposed silica rule. The courts have ruled that OSHA may not use benefit-cost analysis or a criterion of maximizing net benefits as a basis for setting OSHA health standards.” Public comments will be due 90 days after publication in the Federal Register.

Opinion

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- Regulation Review: Crystalline Silica Exposure, Sam Batkins

American Enterprise Institute
- Will Washington politics kill the US energy revival and shale gas revolution?, Jon Etine

Center for American Progress
- Sequestration Delays The Implementation Of Important Regulations, Bryce Covert

In the News

Congress & Regulatory Reform
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- U.S. Held Back by Policy, Regulations, Fisher Says, Bloomberg
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- SEC to Expand Ban on Employees Lobbying Agency After Departure, Bloomberg
- REGULATION NATION: Obama pins climate hopes on bypassing Congress, The Hill
- Obama pushes back against regulation criticism, The Hill

Energy & Environment
- Obama’s climate plan could cut power-plant emissions 26 percent, Or just 1 percent, Washington Post
- Thousands weigh in on proposed fracking rule, The Hill
- Fight Over Proposed Federal Fracking Rules Flares Up, Wall Street Journal
- Feds change endangered species law rules despite GOP protest, The Hill
- Energy secretary defends ‘social cost of carbon’ boost, The Hill

Financial Markets
- Summers vs. Yellen for the Fed: Why not choose both?, Washington Post
- CFPB says mortgage servicing still riddled with problems, Washington Post
- Normally behind-the-scenes process to determine Fed chairman
Internal Revenue Service
IRS Proposes Rule Establishing Guidance on Applicability of PPACA Tax Credit for Small Employers
The Internal Revenue Service published a proposed rule providing guidance on “the tax credit available to certain small employers that offer health insurance coverage to their employees under section 45R of the Internal Revenue Code (Code), enacted by the Patient Protection and Affordable Care Act.” Pursuant to the PPACA, this tax credit is available both to certain taxable and certain tax-exempt small employers. IRS and the Treasury Department have previously published two notices that address the applicability of section 45R, both of which are incorporated into this proposed rule. “As in Notices 2010-44 and 2010-82, these proposed regulations use the term “qualifying arrangement” to describe an arrangement under which an eligible small employer pays premiums for each employee enrolled in health insurance coverage offered by the employer in an amount equal to a uniform percentage (not less than 50 percent) of the premium cost of the coverage. Section 45R(d)(4) and these proposed regulations require that, for tax years beginning during or after 2014, the health insurance coverage described in a qualifying arrangement be a QHP offered by an employer to its employees through a SHOP Exchange.” Comments are due on November 25th.

Environmental Protection Agency
EPA Final Rule Requires Electronic Reporting of Toxic Release Inventory Forms
The Environmental Protection Agency published a final rule requiring facilities to electronically report non-trade-secret Toxic Release Inventory (TRI) forms to EPA. “Electronic reporting of TRI forms provides numerous benefits, including making it easier for facilities to report accurate information, expediting form completion due to the pre-population of many form elements, decreasing the cost to EPA of processing forms, and providing TRI information more quickly to the public. The only exception to this electronic reporting requirement is for the few facilities that submit trade secret TRI information, which will continue to submit their trade secret reporting forms and substantiation forms in hard copy.”

Commodity Futures and Trading Commission
CFTC Final Rule Provides Clearing Exemptions for Certain Swaps Entered Into by Cooperatives
The Commodity Futures Trading Commission published a final rule “allowing cooperatives meeting certain conditions to elect not to submit for clearing certain swaps that such cooperatives would otherwise be required to submit for clearing in accordance with section 2(h)(1) of the CEA.” The Commodity Exchange Act (CEA) “establishes a comprehensive new regulatory framework for swaps. The CEA requires a swap: (1) To be submitted for clearing through a derivatives clearing organization (“DCO”) if the Commission has determined that the swap is required to be cleared, unless an exception or exemption to the clearing requirement applies; (2) to be reported to a swap data repository (“SDR”) or the Commission; and (3) if such swap is subject to a clearing requirement, to be executed on a designated contract market (“DCM”) or swap execution facility (“SEF”), unless no DCM or SEF has made the swap available to trade.” Pursuant to this final rule, a cooperative is exempt from this clearing requirements as long as it “is a “financial entity” solely as defined in section 2(h)(7)(C)(i)(VIII) of the CEA for which each member of the cooperative is either (1) a non-financial entity, (2) a financial institution to which the small financial institution exemption applies, or (3) itself a cooperative each of whose members fall into either of the first two categories.” The rule is effective September 23rd.

CFTC Harmonizes Requirements for Commodity Pool Operators, Registered Investment Companies
The Commodity Futures Trading Commission published a final rule “with respect to certain compliance obligations for commodity pool operators (“CPOs”) of investment companies registered under the Investment Company Act of 1940 (“registered investment companies” or “RICs”) that are required to register due to the recent amendments to its regulations. The Commission is also adopting amendments to certain provisions of part 4 of the Commission's regulations that are applicable to all CPOs and Commodity Trading Advisors (“CTAs”). Accordingly, except for those CPOs of RICs who commit no more than a de minimis portion of their assets to the trading of commodity interests that do not fall within the definition of bona fide hedging and who do not market themselves as a commodity pool or other commodity investment, an operator of a RIC that meets the definition of “commodity pool operator” under § 4.10(d) of the Commission's regulations and § 1a(11) of the CEA must register as such with the Commission.”
Department of the Interior
Interior Proposes Updating Requirements for Outer Continental Shelf Oil, Sulfur, and Gas Production
The Department of the Interior published a proposed rule amending and updating the regulations regarding oil and natural gas production on the Outer Continental Shelf (OCS) and addressing issues including safety and pollution prevention equipment lifecycle analysis, production safety systems, subsurface safety devices, and safety device testing. “This proposed rule would amend and update the Subpart H, Oil and Gas Production Safety Systems regulations. Subpart H has not had a major revision since it was first published in 1988. Since that time, much of the oil and gas production on the OCS has moved into deeper waters and the regulations have not kept pace with the technological advancements. These regulations address issues such as production safety systems, subsurface safety devices, and safety device testing. These systems play a critical role in protecting workers and the environment.” Comments are due on October 21st.

Department of Transportation
FAA Finalizes Policy Statement Regarding Occupational Safety and Health of Aircraft Cabin Crew
The Federal Aviation Administration published a final rule announcing the availability of a new policy statement “regarding the regulation of some occupational safety and health conditions affecting cabin crewmembers on aircraft by the Occupational Safety and Health Administration. This policy statement will enhance occupational safety and health in the aircraft cabin by establishing the extent to which the Occupational Safety and Health Administration requirements may apply to the working conditions of aircraft cabin crew while they are onboard aircraft in operation.” The FAA policy statement outlines the ways in which OSHA regulations are applicable to the cabin crew of aircraft. As finalized in the new policy statement, “OSHA remains preempted from enforcing its standards on aircraft in operation, other than the standards specifically addressed in the new FAA policy statement.”

Agencies
Export-Import Bank
Ex-Im Bank Receives Application for +$100 Million to Fund Boeing Exports to Hong Kong
The Export-Import Bank published a notice announcing the receipt of an application for a long-term loan or financial guarantee in excess of $100 million to fund the export of commercial Boeing aircraft to Hong Kong for the provision of global air service. Comments are due on September 23rd.

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