



March 28, 2014

Good afternoon, the Glass Packaging Institute (GPI) appreciates the opportunity to testify today regarding the Proposed Rulemaking on Crystalline Silica.

GPI is the North American trade association for the glass container manufacturing industry, whose member companies employ 18,000 represented and salaried workers within the glass container industry. A substantial number of those employees at the glass plant level are involved in activities that are likely to be covered by the proposed standard.

GPI and its member companies share OSHA's goal of an updated national crystalline silica regulation based on sound science that not only protects workers from adverse health effects associated with inhaling excessive amounts of respirable crystalline silica, but is also both technologically and economically feasible. The safety of workers at GPI member company plants and facilities is a top priority for our industry.

That being said, we have several significant concerns with the proposed regulation and related recommendations to improve the feasibility and effectiveness of the final rule.

As proposed, the regulation would limit the use of respirators during necessary maintenance and malfunction activities.

These limited events will briefly and periodically breach the proposed permissible exposure limits.

Under the proposed framework, no exception is granted for these activities, nor consideration granted.

The Proposed Rule identifies the glass industry as overall “feasible,” meaning the proposed action level and permissible exposure limits are achievable with engineering controls and work practice controls.

It also appears that under the Proposed Rule, the use of respirators would only be permitted where it is not feasible to install engineering and/or work practice controls.

Both of these regulations would present significant issues for glass and other industries that have been labeled “feasible” under certain circumstances, particularly with respect to maintenance or malfunctions.

In the glass industry, maintenance is extremely difficult to predict because glass manufacturing is extraordinarily complex. As you may know, glassmaking typically proceeds in three stages: raw materials of various sizes, including silica sand, are mixed in the batch house, batched raw material is then melted in the furnace and finally, glass is formed and coated.

Because glass manufacturing involves the input of raw materials of diverse shapes and sizes, maintenance issues for glass manufacturing may vary even within a single company depending on the end product, raw materials, equipment, and location.

Glass manufacturers must have the flexibility to use respirators to respond to unanticipated maintenance issues with little or no notice.

While some maintenance activities may be amenable to feasible engineered solutions over time, others (especially those associated with malfunctions) are entirely unplanned.

Accordingly, in cases that it cannot be planned, it would be impossible to provide adequate engineering controls because the type and level of maintenance/malfunction events are essentially endless. The engineering control itself would require maintenance, and any malfunctions of the engineering control could require immediate unplanned repairs.

Some practical examples of when the need for respirator use would arise include, but are not limited to, equipment issues such as failure of any conveyance system (elevators, conveyors or pipes), failure of dust collecting bag systems or section head failures.

To address such circumstances, we summarize several recommendations below: Pertaining to respirators, limited maintenance and occasional malfunctions at glass plant facilities must be exempt from the Proposed Rule. There are occasional conditions where maintenance on systems is required.

For example, maintenance activities in all of the sand/batch handling systems must be performed due to the abrasive and corrosive nature of the silica itself and other materials in the process. Under such circumstances, it is simply not technically feasible to establish engineering controls for all possible maintenance or malfunction activities that could occur in our operations. Today and going forward, the best way to protect our employees during such activities remains the use of respirators.

With respect to air sampling, due to the unscheduled and sporadic nature of some maintenance and malfunction occurrences, it would not be possible to repeat air sampling within the proposed timeframes.

It should be noted that personal sampling of exposures during routine daily operations is not expected to be problematic.

The draft proposal also prohibits the use of compressed air to clean surfaces and equipment. In the glass container industry, there is equipment that needs to be cleaned using compressed air because other cleaning methods are not effective—for example, the removal of abrasive dust on scales and weighing equipment.

While we agree that compressed air should not be permitted wholesale, there should be an exemption for its use to during such maintenance activities.

Respirators would be mandatory with the use of compressed air during these activities.

Based on the foregoing, GPI recommends permitting the use of respirators during maintenance and malfunction activities and other circumstances related to necessary plant operations such as while using compressed air, and that air sampling not be required during these unanticipated activities.

GPI further recommends that the Proposed Rule allow for compressed air cleaning in specific activities and for certain applications, including scales, weighting equipment, and equipment and surfaces in other limited areas.

We also believe that insufficient time is granted under the Proposed Rule for safe implementation and necessary EPA and applicable state permitting requirements.

As stated in the current proposal, and I quote, “The proposed rule would require engineering controls to be implemented no later than one year after the effective date.”

In addition, the Proposed Rule provides for accelerated testing at 6 and 3 months, depending on the exposure level identified. These timing requirements are wholly unrealistic given the complex permitting, engineering, testing and practical purchasing obstacles.

Employers must be allowed sufficient time to ensure that operational, procedural, testing and other engineering requirements are fully satisfied and proper equipment obtained with permits to comply with newly proposed air and other associated standards. Below is a summary of major impediments that will make OSHA’s proposed timeframe practically infeasible for compliance:

First, environmental Permitting – Our review of requirements in numerous states where a number of GPI member companies’ facilities operate indicate to us that state environmental notification and EPA Title 5 permit modifications are required for such engineering controls in such states.

In such cases, equipment cannot be purchased and facilities cannot be changed or modified to accommodate the equipment until state approval has been obtained. Such approvals alone can take up to 1 year.

Three or six months is simply not enough time for companies to ensure that they are properly in compliance with the proposal. Compliance officers and other company officials need to ensure that sampling measurements, needed permits, and sound procedures are in place at each impacted facility in such cases.

As a component of the glass manufacturing process, sand is used in all glass manufacturing facilities. Because of that, the initial engineering necessary to evaluate all existing facilities during the implementation phase would require additional time (1 year), which is not identified in the Proposed Rule.

GPI recommends that the Proposed Rule be implemented no later than 3 years after the effective date. (This would provide 1 year for the initial evaluative engineering, 1 year for environmental permitting, plus an additional 12 months to implement engineering controls, after the effective date.)

We are also concerned that the proposed air sampling measurements are technologically infeasible and unjustified.

Air samples more than 12 months old cannot be used under the current proposal. This is a substantial change from past practice, i.e., the general rule that sampling and analysis data is valid for 3 years unless there is an equipment or process change that may alter the airborne concentration. GPI believes that this substantial change is overly burdensome and unjustified and would not lead to increased risk reduction for workers.

Additionally, the feasibility of accurately measuring at 25 Micrograms per Cubic Meter of Air, the proposed "action level" is also of concern because, at that level, small changes or minor upsets in the workplace would cause large swings in the sampling results.

Usage of respirators would aid in the reduction of an overexposure risk.

Moreover, the proposal specifies sampling and analytical methodologies.

However, it does not refer to nationally recognized standards put into place by the National Institute for Occupational Safety and Health (NIOSH).

We believe that existing NIOSH sampling and testing methods would satisfy proposed OSHA standards. Rather than creating new and burdensome standards, we would like to see NIOSH protocols adopted as the standard, as they meet OSHA's specification within the proposal.

GPI also recommends the following modifications to this section of the Proposed Rule:

- Sampling results be valid for 3 years unless equipment or process changes could alter the airborne concentrations.
- For any employee exposure sample above the proposed Action Level but below permissible Exposure Limit, the employer must resample within 6 months.
- For any employee exposure sample above the permissible exposure limit, the employer must resample within 3 months.

IV. HEPA Filtered Vacuums:

Also within the Proposed Rule it appears that HEPA filtered vacuums are required. This appears to disallow any other technology. Many glass batch

houses are currently equipped with central vacuum systems that discharge external to the facility. This is a permitted discharge by the Environmental Protection Agency and is in accordance with other applicable laws and regulations. These systems are equivalent, in terms of worker exposure control, to a HEPA vacuum and should be allowed by any new standard.

We request an exemption for vacuum systems that discharge external to the facility, as airborne concentrations of crystalline silica dust would not be generated in the workplace and therefore employee exposure in these instances would not be applicable.

We want to thank OSHA in advance for your thoughtful review of our comments and suggestions to improve upon the Proposed Rule.

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President