

# Federal OSHA's Silica Neverland

Six years after Obama took office, workers are still waiting for protection from deadly dust

By Don McIntosh  
Associate Editor

You wouldn't think sand could kill.

But more than 2 million American workers breathe microscopic silica particles in construction, roadbuilding, shipyards, and elsewhere, and an estimated 700 die each year as a result of longterm chronic exposure. Silicosis — caused when the inhaled silica scars lung tissue — is the world's oldest occupational disease, and it's not the only condition caused by tiny crystalline silica particles. The list also includes pulmonary tuberculosis, chronic bronchitis, emphysema, and lung cancer.

Workers are at risk when they cut, saw, drill, chip, bore, blast and crush concrete, brick, and stone—or use sand in sandblasting, glassmaking or foundry work. All those activities generate airborne microscopic crystalline silica particles that are 100 times smaller than ordinary sand, so they aren't caught by the body's filter mechanisms, and in-

stead go right into the lungs.

So why isn't OSHA — the Occupational Safety and Health Administration — doing something to better protect workers on the job? That's the agency's purpose — “to assure safe and healthful working conditions ... by setting and enforcing standards.”

The answer: moneyed interests have become expert at slowing and stopping OSHA from doing its job.

“It's a really broken awful process,” says Peg Seminario, longtime Safety and Health director for the national AFL-CIO.

The silica rule is a 40-year saga. OSHA in 1972 set a maximum allowable workplace exposure of silica, but the rule didn't require employers to monitor or train or reduce exposure. Two years later, the National Institute for Occupational Safety and Health concluded that OSHA's rule was insufficient. And in the decades since then, even the air sampling method that OSHA requires in its silica rule has become obsolete.

OSHA started — and stopped — work on an improved silica rule in the 1990s and again in the 2000s. In 2009, the newly

installed Obama Administration announced that an OSHA rule on silica would be one of its regulatory priorities. But OSHA didn't release a draft of the rule until 2011, and at that point it entered regulatory limbo — “review” by the White House Office of Management and Budget. The review was supposed to last 90 days. Instead, it took two-and-a-half years.

It was pure politics, Seminario says: “They were being pushed by the business community not to do this rule.”

Now, it appears that White House delay may have killed the chances for a new silica rule for the foreseeable future. True, the White House finally released the rule, after members of Congress complained and AFL-CIO president Rich Trumka publicly shamed the administration for “inexcusable and heartless” delay.

And on Aug. 23, 2013, OSHA presented details of the proposed rule: Where workers are exposed to microscopic silica, employers would have to monitor air, provide periodic medical checkups to test for exposure, and train workers how to reduce risk. They'd also have

to use water to dampen the dust, vacuum systems to remove it, or enclosures to limit its spread, or, where none of those methods are practical, provide respirators or other protective gear. OSHA estimated compliance with the rule would cost about \$1,037 per employer.

As soon as the rule was released, dozens of business groups and industry associations swung into action, writing and testifying with objections.

OSHA announced a 90-day period of public comment, which was extended another 47 days, and another 15. Hearings were held in March and April 2014, and OSHA gave participants until June 3 to submit further comments, and until Aug. 18 to submit further final arguments. Eight months later, OSHA staff are still reading and thinking about all those comments.

As Department of Labor spokesperson Laura McGinnis put it, the silica rule is “in the comment review stage.”

Seminario thinks OSHA will finish the silica rule in early 2016.

The trouble is, while OSHA and the White House dilly-dallied for six years, Congress changed hands.

The AFL-CIO now expects Republican House and Senate majorities to do what they've done before, Seminario says: Use their spending power to block the rule. When Congress passes the next massive funding



“The delay in job safety protections for silica is inexcusable and heartless.”

— Feb. 13, 2013.

“The final silica rule should be issued as fast as humanly possible.”

— Aug. 23, 2013

— AFL-CIO President  
Richard Trumka

bill for “Labor, Health and Human Services, Education, and Related Agencies” — which includes the OSHA budget — it could add a rule that none of the money can be spent implementing the silica rule. That's what they did with ergonomics back in 2001, which is why U.S. employers to this day face no outright requirement to prevent repetitive motion injuries like carpal tunnel. If that happens with the silica rule, and Obama signs it, workers will have to wait for another president, and another Congress, for OSHA to protect them.



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## KGW unions to take to Pioneer Square April 25

KGW-TV's three unions are going public about a standoff with management negotiators for parent company Gannett. At noon on Saturday, April 25, they'll assemble at Pioneer Courthouse Square — where the station has an office — for a public town hall.

All three unions are having a tough time negotiating new collective bargaining agreements with the station: International Alliance of Theatrical Stage Employees (IATSE) Local 600, the International Brotherhood of Electrical Workers (IBEW) Local 48, and the Screen Actors Guild-American Federation of Television and Radio Artists (SAG-AFTRA).

The big sticking point is a proposal by Gannett to eliminate union jurisdiction. As union negotiators understand it, that would mean contract terms would apply only to current union members, and the company could hire new employees to do the same work under different terms.

Blues musician Norman Sylvester will perform at the event.