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DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Parts 1910, 1915, and 1926

[Docket No. OSHA-2010-0034]

RIN 1218-AB70

Occupational Exposure to Respirable Crystalline Silica; Approval of Collections of Information

AGENCY: Occupational Safety and Health Administration (OSHA), Department of Labor.

ACTION: Final rule; Office of Management and Budget's (OMB) approval of collections of information.

SUMMARY: This rule is a technical amendment announcing that OMB has approved the collections of information contained in OSHA's standards for Occupational Exposure to Respirable Crystalline Silica and revising OSHA's regulations to reflect that approval. The OMB approval number is 1218-0266.

DATE: Effective **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

FOR FURTHER INFORMATION CONTACT: Todd Owen, OSHA, Directorate of Standards and Guidance, Room N-3609, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693-2222.

SUPPLEMENTARY INFORMATION:

OSHA published a final rule for the Occupational Exposure to Respirable Crystalline Silica standards on March 25, 2016 (81 FR 16286), after determining that employees exposed to respirable crystalline silica at the previous permissible exposure

limits face a significant risk of material impairment to their health. The evidence in the record for this rulemaking indicates that workers exposed to respirable crystalline silica are at increased risk of developing silicosis and other nonmalignant respiratory diseases, lung cancer, and kidney disease. These requirements are necessary to provide protection from these hazards. The silica final rule becomes effective on June 23, 2016. Start-up dates for specific provisions are set in §1910.1053(l) for general industry and maritime and in §1926.1153(k) for construction.

Consistent with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501-3520), the Federal Register notice for the Occupational Exposure to Respirable Crystalline Silica final rule states that employers do not have to comply with the collections of information until OMB approves those collections of information and the Department of Labor publishes a notice in the Federal Register announcing this approval and the control number assigned by OMB to the final rule's collections of information. Under 5 CFR 1320.5(b), an agency may not conduct or sponsor a collection of information unless: (1) The collection of information displays a current valid OMB control number and (2) the agency informs members of the public required to respond to the collection of information that they are not required to do so unless the agency displays a currently valid OMB control number for the collection of information.

On March 25, 2016, the Department of Labor submitted an information collection request for the final rule to OMB for approval in accordance with the PRA. On June 27, 2016, OMB approved the collections of information contained in the final rule and assigned these collections of information OMB Control Number 1218-0266, titled "Respirable Crystalline Silica Standards for General Industry, Shipyard Employment and

Marine Terminals (29 CFR 1910.1053) and Construction (29 CFR 1926.1053).” The approval for collecting the information expires on June 30, 2019.

This revision of §1910.8, §1915.8 and §1926.5 is a technical amendment to increase public awareness of OMB’s approval of the collections of information.

Opportunity for public comment on this rule is therefore unnecessary. The Agency notes that the public has already had the opportunity to comment on the collections of information and OMB has approved them.

The final Occupational Exposure to Respirable Crystalline Silica standards impose new collections of information for purposes of the PRA. The collections of information in the rule are needed to assist employers in identifying and controlling exposures to respirable crystalline silica in the workplace, and to address adverse health effects related to respirable crystalline silica. OSHA will also use records developed in response to these standards to determine compliance with OSHA standards.

The table below identifies the new collections of information contained in the final rule.

Collection of Information Requirements in the Final Standard	
Exposure assessment - General;	29 CFR 1910.1053(d)(1), 29 CFR 1926.1153(c)(1), 29 CFR 1926.1153(d), and 29 CFR 1926.1153(d)(2)(i);
Exposure assessment - Performance option;	29 CFR 1910.1053(d)(2) and 29 CFR 1926.1153(d)(2)(ii);
Exposure assessment - Scheduled monitoring option;	29 CFR 1910.1053(d)(3)(i), 29 CFR 1910.1053(d)(3)(iii)- (d)(3)(v), 29 CFR 1926.1153(d)(2)(iii)(A), and 29 CFR 1926.1153(d)(2)(iii)(C)-(E);
Exposure assessment - Reassessment of	29 CFR 1910.1053(d)(4) and

exposures;	29 CFR 1926.1153(d)(2)(iv);
Exposure assessment - Notifying each affected employee in writing of the monitoring results or posting the results;	29 CFR 1910.1053(d)(6)(i) and 29 CFR 1926.1153(d)(2)(vi)(A);
Exposure assessment - Describing corrective actions being taken to reduce employee exposure to or below the PEL in the written notification when an exposure assessment indicates that that employee exposure is above the PEL;	29 CFR 1910.1053(d)(6)(ii) and 29 CFR 1926.1153(d)(2)(vi)(B);
Written exposure control plan - Establishing and implementing a written exposure control plan;	29 CFR 1910.1053(f)(2)(i), 29 CFR 1910.1053(f)(2)(i)(A)-(C), 29 CFR 1926.1153(g)(1), and 29 CFR 1926.1153(g)(1)(i)-(iv);
Written exposure control plan - Reviewing and evaluating the effectiveness of the written exposure control plan annually and updating it as necessary;	29 CFR 1910.1053(f)(2)(ii) and 29 CFR 1926.1153(g)(2);
Written exposure control plan - Making the written exposure control plan readily available for examination and copying;	29 CFR 1910.1053(f)(2)(iii) and 29 CFR 1926.1153(g)(3);
Methods of compliance - Compliance with 29 CFR part 1915 Subpart I;	29 CFR 1910.1053(f)(3);
Respiratory protection - Instituting a respiratory protection program in accordance with 29 CFR 1910.134;	29 CFR 1910.1053(g)(2) and 29 CFR 1926.1153(e)(2);
Medical surveillance - Implementing medical surveillance of employees;	29 CFR 1910.1053(i)(1)(i), 29 CFR 1910.1053(i)(2), 29 CFR 1910.1053(i)(2)(i)-(i)(2)(vi), 29 CFR 1910.1053(i)(3), 29 CFR 1910.1053(i)(7)(i), 29 CFR 1926.1153(h)(1)(i), 29 CFR 1926.1153(h)(2), 29 CFR 1926.1153(h)(2)(i)-(h)(2)(vi), 29 CFR 1926.1153(h)(3), and 29 CFR 1926.1153(h)(7)(i);
Medical surveillance - Ensuring that the physician or other licensed health care professional (PLHCP), or specialist, has certain specified information;	29 CFR 1910.1053(i)(4), 29 CFR 1910.1053(i)(4)(i)-(iv), 29 CFR 1910.1053(i)(7)(ii), 29 CFR 1926.1153(h)(4), 29 CFR 1926.1153(h)(4)(i)-(iv), and 29 CFR 1926.1153(h)(7)(ii);

<p>Medical surveillance - Ensuring that the PLHCP, or specialist, explains to the employee the results of the medical examination and provides each employee with a copy of their written medical report;</p>	<p>29 CFR 1910.1053(i)(5), 29 CFR 1910.1053(i)(5)(i)-(iv), 29 CFR 1910.1053(i)(7)(iii), 29 CFR 1926.1153(h)(5), 29 CFR 1926.1153(h)(5)(i)-(iv), and 29 CFR 1926.1153(h)(7)(iii);</p>
<p>Medical surveillance - Obtaining a written medical opinion from the PLHCP, or specialist, and ensuring that each employee receives a copy of the PLHCP's written medical opinion;</p>	<p>29 CFR 1910.1053(i)(6)(i), 29 CFR 1910.1053(i)(6)(i)(A)-(C), 29 CFR 1910.1053(i)(6)(ii)(A)-(B), 29 CFR 1910.1053(i)(6)(iii), 29 CFR 1910.1053(i)(7)(iv), 29 CFR 1926.1153(h)(6)(i), 29 CFR 1926.1153(h)(6)(i)(A)-(C), 29 CFR 1926.1153(h)(6)(ii)(A)-(B), 29 CFR 1926.1153(h)(6)(iii), and 29 CFR 1926.1153(h)(7)(iv);</p>
<p>Hazard communication - Including respirable crystalline silica in the program established to comply with the hazard communication standard (29 CFR 1910.1200) and ensuring that each employee has access to labels on containers of crystalline silica and safety data sheets;</p>	<p>29 CFR 1910.1053(j)(1) and 29 CFR 1926.1153(i)(1);</p>
<p>Making and maintaining air monitoring data and objective data records and medical surveillance records for specific periods;</p>	<p>29 CFR 1910.1053(k)(1)(i), 29 CFR 1910.1053(k)(1)(ii), 29 CFR 1910.1053(k)(1)(ii)(A)-(G), 29 CFR 1910.1053(k)(2)(i), 29 CFR 1910.1053(k)(2)(ii), 29 CFR 1910.1053(k)(2)(ii)(A)-(E), 29 CFR 1910.1053(k)(3)(i), 29 CFR 1910.1053(k)(3)(ii), 29 CFR 1910.1053(k)(3)(ii)(A)-(C), 29 CFR 1926.1153(j)(1)(i), 29 CFR 1926.1153(j)(1)(ii), 29 CFR 1926.1153(j)(1)(ii)(A)-(G), 29 CFR 1926.1153(j)(2)(i),</p>

	29 CFR 1926.1153(j)(2)(ii), 29 CFR 1926.1153(j)(2)(ii)(A)- (E) 29 CFR 1926.1153(j)(3)(i), 29 CFR 1926.1153(j)(3)(ii), and 29 CFR 1926.1153(j)(3)(ii)(A)- (C);
Recordkeeping - Making air monitoring data, objective data, and medical surveillance records available.	29 CFR 1910.1053(k)(1)(iii), 29 CFR 1910.1053(k)(2)(iii), 29 CFR 1910.1053(k)(3)(iii), 29 CFR 1926.1153(j)(1)(iii), 29 CFR 1926.1153(j)(2)(iii), and 29 CFR 1926.1153(j)(3)(iii).

Title: Respirable Crystalline Silica Standards for General Industry, Shipyard Employment and Marine Terminals and Construction.

Affected Public: Business or other for-profits.

Number of Respondents: 682,581 firms.

Frequency: Biennially; Once; Semi-annually; On occasion; Annually; Quarterly.

Average Time per Response: Varies from 5 minutes for the employer to make air-monitoring data, objective data and medical surveillance records available to employees to 16 hours for a large employer to develop a written exposure control plan.

Estimated Total Burden Hours: 12,118,364 hours.

Estimated Costs (Operation and Maintenance): \$394 million.

Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this document. The authority for this document is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 et seq.) and Secretary of Labor's Order 1-2012 (77 FR 3912 (January 25, 2012)).

Signed at Washington, D.C., on July 15, 2016.

David Michaels,
Assistant Secretary of Labor for Occupational Safety and Health.

For the reasons stated in the preamble, the Occupational Safety and Health Administration amends 29 CFR parts 1910, 1915, and 1926 as follows:

Part 1910—[AMENDED]

1. The authority citation for part 1910 continues to read as follows:

AUTHORITY: 29 U.S.C. 653, 655, 657; Secretary of Labor's Order Numbers 12-71 (36 FR 8754), 8-76 (41 FR 25059), 9-83 (48 FR 35736), 1-90 (55 FR 9033), 6-96 (62 FR 111), 3-2000 (65 FR 50017), 5-2002 (67 FR 65008), 5-2007 (72 FR 31159), 4-2010 (75 FR 55355), or 1-2012 (77 FR 3912), as applicable.

Sections 1910.6, 1910.7, 1910.8 and 1910.9 also issued under 29 CFR 1911. Section 1910.7(f) also issued under 31 U.S.C. 9701, 29 U.S.C. 9a, 5 U.S.C. 553; Public Law 106-113 (113 Stat. 1501A-222); Pub. L. 11-8 and 111-317; and OMB Circular A-25 (dated July 8, 1993) (58 FR 38142, July 15, 1993).

Subpart A—General

2. Amend §1910.8 by adding to the table, in the proper numerical sequence, the entry “1910.1053” to read as follows:

§1910.8 OMB control numbers under the Paperwork Reduction Act.

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29 CFR citation	OMB control No.
* * * * *	
1910.1053.....	1218-0266
* * * * *	

Part 1915—[AMENDED]

3. The authority citation for part 1915 continues to read as follows:

AUTHORITY: Section 41, Longshore and Harbor Workers' Compensation Act (33 U.S.C. 941); Sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12-71 (36 FR 8754), 8-76 (41 FR 25059), 9-83 (48 FR 35736), 1-90 (55 FR 9033), 6-96 (62 FR 111), 3-2000 (65 FR 50017), 5-2002 (67 FR 65008), 5-2007 (72 FR 31160), 4-2010 (75 FR 55355), or 1-2012 (77 FR 3912), as applicable; 29 CFR Part 1911.

Subpart A—General

4. Amend §1915.8 by adding to the table, in the proper numerical sequence, the entry

“1915.1053” to read as follows:

§1915.8 OMB control numbers under the Paperwork Reduction Act.

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29 CFR citation	OMB control No.
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1915.1053.....	1218-0266
* * * * *	

Part 1926—[AMENDED]

5. The authority citation for part 1926 continues to read as follows:

AUTHORITY: 40 U.S.C. 3701 *et seq.*; 29 U.S.C. 653, 655, 657; Secretary of Labor's Order No. 12-71 (36 FR 8754), 8-76 (41 FR 25059), 9-83 (48 FR 35736), 1-90 (55 FR 9033), 6-96 (62 FR 111), 3-2000 (65 FR 50017), 5-2002 (67 FR 65008), or 5-2007 (72 FR 31160), 5-2007 (72 FR 31160), 4-2010 (75 FR 55355), or 1-2012 (77 FR 3912), as applicable; and 29 CFR Part 1911.

Subpart A—General

6. Amend §1926.5 by adding to the table, in the proper numerical sequence, the entry

“1926.1153” to read as follows:

§1926.5 OMB control numbers under the Paperwork Reduction Act.

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29 CFR citation	OMB control No.
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1926.1153.....	1218-0266
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