



# Safety Update

Issue Date: April 8, 2016

## **AGC OF OHIO ONLINE SAFETY COMMITTEE MEETING: OSHA REGULATORY ACTIVITY, SAFETY MATTERS**

The AGC of Ohio Safety Committee will host an online meeting to discuss recent OSHA regulatory activity, including silica, and other pertinent safety issues of interest to the participants. The meeting will take place on April 27 from 8-9:30 p.m. To participate, e-mail Andrea Ashley at [andrea@agcoho.com](mailto:andrea@agcoho.com), and she will forward you the appropriate link.

## **AGC OF OHIO SAFETY LUNCHEON**

Mark your calendar for the AGC of Ohio Safety Luncheon on June 10, 2016 at the Embassy Suites in Dublin, Ohio. Registration information and additional details will be sent out next week. Sponsorship opportunities are available for those interested. During the event, the AGC of Ohio Construction Safety Excellence Award winners and those receiving the National AGC Safety Awards Certificate of Commendation will be recognized. Prior to the luncheon, there will be a presentation about OSHA's new silica rule. Contact Andrea Ashley at AGC of Ohio for more information: [andrea@agcoho.com](mailto:andrea@agcoho.com) or (614) 486-6446.

## **AGC OF OHIO MEMBERS RECOGNIZED WITH NATIONAL SAFETY AWARDS**

Congratulations to the following AGC of Ohio members for being recognized in AGC of America's Construction Safety Excellence Awards program:

- 1<sup>st</sup> Place: Gilbane Building Co.: Construction Management Division Over 1 Million Work Hours (WH)
- 2<sup>nd</sup> Place: Donley's, Inc.: Building Division Over 1 Million WH
- 3<sup>rd</sup> Place: The Great Lakes Construction Co.: Highway & Transportation Division 450,000 – 650,000 WH
- 3<sup>rd</sup> Place: Independence Excavating Co.: Federal & Heavy Division Over 900,000 WH

## **MEDICAL MARIJUANA**

### **Ohio House Medicinal Marijuana Taskforce Concludes Hearings; AGC Urges Panel to Protect Employers**

**Ability to Maintain Drug Free Workplaces:** The Ohio House Medicinal Marijuana Taskforce Committee wrapped up hearings yesterday. AGC of Ohio and Ohio Contractors Association (OCA) submitted [joint testimony](#) highlighting the inherent dangers of construction jobsites and the importance of drug free workplaces in the industry. They advised the panel that "under any medicinal marijuana proposal, employers must be able to maintain their current drug free workplace (DFWP) programs, and those programs need to include medical marijuana as a prohibited drug." According to the taskforce's chair, Rep Kirk Schuring (R-Canton), the panel's recommendations will be provided to the Speaker of the House on Tuesday.

**Ballot Board Certifies Unrelated Medical Marijuana Initiative:** Yesterday the Ballot Board approved a medical marijuana constitutional amendment as a single issue. With the Ballot Board's approval of the issue, the group can begin circulating petitions for the [Ohioans for Medical Marijuana Act](#). In order to place the issue on the November ballot, the committee will have to submit 305,591 valid signatures by July 6.

## AGC OF AMERICA WORKS WITH LOUISIANA AGC TO CHALLENGE OSHA'S SILICA RULE

On April 4, the Louisiana AGC, at AGC of America's request, filed a challenge to the Occupational Safety and Health Administration's (OSHA) final respirable crystalline silica rule in the U.S. Court of Appeals for the Fifth Circuit.

On March 25, 2016, OSHA released its final rule detailing steps that employers must take to reduce exposure of employees to silica dust. Of primary concern to AGC is that the final rule maintains the same, unattainable permissible exposure level (PEL) of 50 micrograms per cubic meter of air (averaged over an 8-hour shift) that was included in the proposed rule. In addition to the significantly lower exposure (down from the current exposure level of 250 micrograms), the final rule contains the following provisions:

- Requires employers to use engineering controls in an effort to meet the new PEL
- Requires that respirators be provided to employees when engineering controls cannot meet the new PEL
- Requires developing a written exposure control plan including the designation of a competent person to implement the plan
- Requires medical exams for workers who will be required to wear a respirator for 30 days or more out of a year

The administration did respond to AGC's comments on the proposed rule by removing the regulated areas requirement in the construction specific rule that would have forced contractors to seal off areas of a construction project where dust is being generated. Additionally, the final rule does not include a requirement for contractors to provide protective clothing.

AGC's CEO Stephen E. Sandherr said in response, "Instead of crafting a new standard that the construction industry can comply with, administration officials have instead opted to set a new standard that is well beyond the capabilities of current air filtration and dust removal technologies. Our concern is that this new rule will do little to improve workplace health and safety, which is why we will continue our review of the new measure, consult with our members and decide on a future course of action that will best serve the health and safety of millions of construction workers across the country."

Filing the petition today starts what is likely to be a lengthy legal challenge to this measure. However, as flawed as this new final rule is, victory in court is far from certain. Indeed if there is one thing AGC has learned in the association's long and successful history of pushing back against unneeded and ineffective regulatory measures is that legal challenges are difficult to win. That is why AGC's government affairs team will continue to work with Congress and the next presidential administration to seek measures to improve this flawed rule in a way that truly benefits the health and safety of the construction workforce.

For more information about the rule, click [here](#) and [here](#). View the [final silica rule](#).

[Contact your members of Congress](#) and urge them to block implementation of this rule until it can be proven to be technologically and economically feasible.

## OSHA UPDATES EYE AND FACE PROTECTION STANDARDS IN FINAL RULE

OSHA has [published a final rule](#) that updates requirements for personal protective equipment (PPE) for workers in general industry, shipyards, longshoring, marine terminals and construction. The final rule reflects current national consensus standards, and ensures that workers can use up-to-date eye and face protection.

The rule updates references in OSHA's Eye and Face Protection Standards to recognize the ANSI/ISEA Z87.1-2010, Occupational and Educational Personal Eye and Face Protection Devices; deletes the outdated 1986 edition of that same national consensus standard; retains the 2003 and 1989 (R-1998) versions of the ANSI standard; deletes the 1968 version of the ANSI standard that was referenced ; and includes the same three ANSI standards referenced above to ensure consistency among the agency's standards. OSHA's final rule becomes effective on April 25, 2016. [Learn more](#).

## OSHA ISSUES HAZARD ALERT ON SCISSOR LIFTS

During a one-year period, OSHA investigated scissor lift-related incidents that killed 10 people and injured more than 20. The agency states that all of the incidents were preventable, and most stemmed from employers not addressing fall protection, stabilization or positioning.

OSHA recently issued a [hazard alert](#) on scissor lifts, providing the following recommendations:

- Install scissor lifts with guardrails;
- Allow only trained workers to use scissor lifts; training should include never standing on the guardrails and keeping work within easy reach to avoid leaning away from the lift;
- Ensure scissor lifts are stable by following the manufacturer's instructions;
- Use the device outside only in good weather conditions;
- Position scissor lifts at least 10 feet away from electrical power sources; and
- Implement traffic controls to prevent workers or vehicles from approaching the lifts.

## BWC OTHER STATES COVERAGE BEGINS

A new workers' compensation coverage insurance option is now available to eligible Ohio businesses for their employees who work in other states. The new offering will simplify workers' comp for these employers, ensuring their employees are protected without the need to manage policies in multiple states with varying laws. As of March 1, employers can apply for this coverage through policies issued by the Ohio Bureau of Workers' Compensation (BWC) through a program with United States Insurance Services (USIS) and Zurich Insurance.

BWC does generally provide coverage for employees working temporarily outside of Ohio, however, complications can arise when the injured worker files a claim in another state. Treatment can be delayed and businesses can be subject to penalties by the other state. Additionally, some states require Ohio employers to obtain workers' compensation coverage (other than BWC's coverage) for *any* work performed there by their employees, regardless of how brief their work is in the other state.

An AGC-supported law enacted last year granted BWC the authority to contract with an insurer to provide this coverage. USIS and Zurich submitted a program proposal and were selected through a request for proposal process. USIS first installed an "other state's coverage" option in Maryland in 1996, and first began its agency relationship with Zurich in 2010.

Employers must have the majority of their business in Ohio to be eligible for the coverage option. Interested employers will apply directly to BWC, which will determine eligibility and the premium cost for the optional coverage. BWC will issue a Zurich policy to cover out-of-state exposures and Zurich will respond to any claims filed out of state. Learn more: [www.bwc.ohio.gov/employer/services/OtherStatesCoverage.asp](http://www.bwc.ohio.gov/employer/services/OtherStatesCoverage.asp)

## BWC NEWS

**Buehrer to Step Down:** On April 1, Governor Kasich's office announced that after more than five years heading up the Ohio Bureau of Workers' Compensation (BWC), Administrator Steve Buehrer will resign his post effective April 15. Sarah Morrison, the bureau's chief legal officer, will serve as interim administrator and CEO.

**Premium Reduction:** The Ohio BWC Board on March 17 approved an 8.6 percent reduction in overall average rates for the state's private employers. The move will decrease projected annual premiums by \$113 million next year. The latest cuts for private employers will begin July 1. The proposed reduction is an overall statewide average. The actual premium paid by individual private employers depends on a number of factors, including the expected future costs in their industry, their recent claims history, and their participation in various programs. Employers are encouraged to visit [bwc.ohio.gov](http://bwc.ohio.gov) to learn about programs that can assist in lowering their workers' compensation costs by making safety improvements in their workplaces.