

OSHA Extends Silica Rule Comment Deadline to February 11

January 24, 2014

On the afternoon of January 24, 2014, with one-and-a-half business days left to the original deadline of January 27, the Occupational Safety and Health Administration (OSHA) announced a 15-day extension of the comment period to the agency's proposed rule on occupational exposure to respirable crystalline silica. The new deadline is.....

On the afternoon of January 24, 2014, with one-and-a-half business days left to the original deadline of January 27, the Occupational Safety and Health Administration (OSHA) [announced a 15-day extension](#) of the comment period to the agency's [proposed rule on occupational exposure to respirable crystalline silica](#). The new deadline is February 11, 2014.

The announcement came via press release, instead of through the normal route for notice—publication in the *Federal Register*—due to the last-minute nature of the extension. In the press release, OSHA indicated that the brief extension was given in response to “concerns raised about possible public confusion due to an error on www.regulations.gov,” the federal site operated by the General Services Administration (GSA) to allow the public to participate in the federal regulatory rulemaking process. Public hearings on the proposed silica rule remain scheduled to begin on March 18, 2014.

The “concerns raised about possible public confusion” refer to Rep. Tim Walberg's (R-MI) January 23, 2014 letter to Assistant Secretary of Labor for Occupational Safety and Health Dr. David Michaels, noting that Regulations.gov incorrectly stated that the comment period for the proposed rule was “closed.” “I request that DOL [the U.S. Department of Labor] extend its public comment period for an additional 30 days as the incorrect deadline may have deterred stakeholders from providing comments,” Walberg wrote to the OSHA head. “An extension ensures stakeholders confused by this mistake have adequate time to submit comments.” OSHA offered no explanation for why the agency did not grant the full 30-day extension that Representative Walberg requested. As of January 24, the [website still erroneously listed the comment period as closed](#).

OSHA initially extended the deadline to comment from December 11, 2013 to January 27, 2014, after countless industry groups requested more time to analyze and respond to the complex rule. Many groups, including the U.S. Chamber of Commerce, the National Association of Manufacturers, the National Federation of Independent Business, the American Chemistry Council, the National Industrial Sand Association, and the National Association of Home Builders renewed requests for 45, 90, or 120 additional days. These groups protested that OSHA spent years developing its dense 232-page proposed rule and 1,401-page Preliminary Economic Analysis (PEA) (in addition to an 80-page PEA appendix on the hydraulic fracturing industry, which the agency nearly forgot), while only giving stakeholders a relatively short amount of time to analyze and respond to these voluminous materials. OSHA's press release did not mention these requests.

OSHA's insistence on fast-tracking the proposed silica rule will undoubtedly increase tensions between industry groups and the agency at the public hearings that will take place in March. Ultimately, the process may prompt one or more stakeholders to claim a violation of the Administrative Procedures Act and file suit, whenever the agency issues a final rule.

TOPICS

[Workplace Safety and Health](#)