

## CLIENT ALERT

### OSHA Issues Hazard Alert For Worker Exposures During Hydraulic Fracturing at Oil and Gas Drilling Sites

June 22, 2012

On June 21, 2012, the Occupational Safety and Health Administration ("OSHA") released a Hazard Alert aimed at raising awareness about worker exposure to silica from sand used in the hydraulic fracturing process at oil and gas drilling sites nationwide. The issuance of the hazard alert was prompted by preliminary findings released by the National Institute for Occupational Safety and Health ("NIOSH") in May 2012. [Click here for a copy of the OSHA Hazard Alert](#). The NIOSH preliminary findings are reflected in a presentation prepared by NIOSH industrial hygienist, Eric J. Esswein, *et al.*, entitled "*NIOSH Field Effort to Assess Chemical Exposures in Oil and Gas Workers: Health Hazards in Hydraulic Fracturing*." OSHA stated in the hazard alert that "NIOSH's recent field studies show that workers may be exposed to dust with high levels of respirable crystalline silica ... during hydraulic fracturing." The OSHA and NIOSH actions are designed to raise awareness and compliance efforts by the regulated industry. Increased enforcement efforts by OSHA can also be anticipated.

OSHA has long regulated airborne exposure to respirable dust containing silica in the workplace under a Permissible Exposure Limit ("PEL"), which is specified in 29 C.F.R. § 1910.1000. The PEL is approximately equal to 0.1 mg/m<sup>3</sup> for pure quartz silica. As OSHA's hazard alert points out, crystalline silica is one of the most common minerals in the earth's crust and makes up ordinary sand and stone materials.

The NIOSH field effort found indications that the PEL was being exceeded at some oil and gas drilling sites where sand was moved and blended for hydraulic fracturing activities. Where a PEL exceedance may occur, the use of personal respiratory protection devices can be used to achieve compliance in some circumstances under OSHA's Respiratory Protection Standard (29 C.F.R. § 1910.34).

The National Toxicology Program has concluded that crystalline silica is a known human carcinogen. As OSHA states in the hazard alert, breathing silica can cause silicosis. In recent months, OSHA has been developing a rulemaking to lower the PEL for crystalline silica, although a notice of proposed rulemaking has not yet been published in the *Federal Register*. Worker exposure to silica in the extraction of sand, stone and other mineral products is regulated by the Mine Safety and Health Administration ("MSHA"). MSHA has stated that it intends to engage in rulemaking to change its silica standard as the OSHA rulemaking progresses.

Crowell & Moring LLP has represented the natural resource and manufacturing industries for decades in occupational safety and environmental regulatory issues. The firm was lead counsel for the American Iron & Steel Institute and the American Mining Congress in *AFL-CIO v. OSHA*, 956 F.2d 962 (11th Cir. 1992), which invalidated 428 OSHA PELs.

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