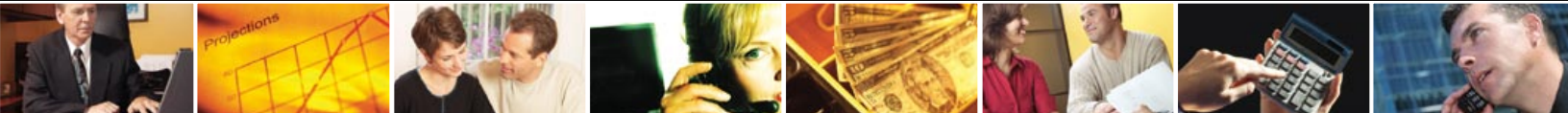


Risk Monitor



Should Your Business Be Concerned About Silica Lawsuits?

In America, asbestos litigation has become a huge problem for both businesses and insurance carriers. According to a study released in May 2005 by the RAND Institute for Civil Justice, more than 730,000 people filed claims for asbestos-related injuries from the early 1970s through 2002.

The study also stated that the number of asbestos claims increased dramatically through the 1990s and into 2002 because of suits filed by people who are claiming non-cancerous injuries. These cases account for 90 percent of all new claims, adding to the large numbers of asbestos litigation brought by the cancer-stricken.

In the midst of this there is a new threat that promises to be as big a player in the litigation arena as asbestos has been. That threat is silica.

Silica is a major component of sand, rock and mineral ores. Overexposure to dust containing microscopic particles of crystalline silica can cause scar tissue to form in the lungs. The scar tissue reduces the ability of the lungs to extract oxygen from the air. This condition is called silicosis, which is disabling, nonreversible and sometimes fatal.



According to A Guide To Working Safely With Silica, published by the National Institute for Occupational Safety and Health (NIOSH), "Each year, more than 250 American workers die with silicosis. More than 1 million U.S. workers are exposed to crystalline silica. There is no cure for the disease, but it is 100 percent preventable if employers, workers and health professionals work together to reduce exposures."

Working in a dusty area increases the possibility of your employees becoming exposed to silica as does working in certain occupations such as construction, mining, foundry work, glass manufacturing and stone cutting. Despite the occupation, following some basic procedures can reduce silica exposure:

- Be sure that employees use the engineering controls you have installed to reduce silica dust levels, and make sure they are properly maintained. Employees should report any malfunction immediately.
- Minimize dust by following good work practices, such as removing dust with a water hose or a vacuum with a high-efficiency particulate filter rather than blowing it clean with compressed air. Wet sweeping is preferable to dry sweeping.
- Use less hazardous materials than crystalline silica for abrasive blasting.
- To reduce exposures below permissible levels, insist that employees wear and correctly use approved particulate respirators when engineering controls alone are not adequate.
- Remind employees that facial hair interferes with the respirator seal to the face, making most respirators ineffective.

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Have you started utilizing our CLAIMS FILEHANDLER for paperless online claims submission and OSHA log data entry?

This internet portal provides claim forms for all 50 states, OSHA LOGS AND HIERARCHICAL LOSS RUN REPORTING to support your LOSS CONTROL PROGRAM.

To arrange a web-demo, please contact either Leah Peters (LPETERS@TOBIAS.COM) OR Shannon Zorman (SZORMAN@TOBIAS.COM) OR

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TOBIAS

INSURANCE GROUP, INC.

Tobias Insurance Group, Inc.

9247 North Meridian Street, Suite 300

P.O. Box 90380

Indianapolis, IN 46290

Phone: (317) 844-7759

Fax: (317) 844-9910

Website: <http://www.tobias.com>



Protect Your Company from Identity Theft Liability

If your business does not properly dispose of personal information from customers or employees you could be fined, sued or involved in a costly class action lawsuit. That is because of the new strict information Disposal Rule effective June 1, 2005 that affects nearly every business in the United States.

Identity theft is the fastest growing crime in America. The Federal government has recognized that improper disposal of sensitive information is a key cause of identity theft and is firm in its commitment to prevent identity thieves from obtaining personal information.

The Fair and Accurate Credit Transactions Act is an amendment to the Fair Credit Reporting Act. The new Disposal Rule portion of the law requires companies to properly dispose of all paper or electronic personal data by reasonable measures such as shredding or burning for paper records. Third party companies that specialize in proper information disposal can be contracted to handle this responsibility.

If you do not comply with the new Disposal Rule your company could be subject to civil liability for actual or statutory damages as a result of your inaction leading to the identity theft; class action lawsuits, if a large number of employees or customers are involved; and federal fines of up to \$2,500 for each violation and state fines of up to \$1,000 for each violation.

When implementing information disposal practices, consider the following:

- Have a valid reason for requesting the information that you gather
- Acquire data in a private manner that cannot be seen or overheard
- Install effective security on systems that store personal data
- Make sure that sensitive data is treated as highly classified and is access controlled
- Make all paper and electronic documents unreadable before disposing of them
- Train all personnel in proper procedures for identifying, handling and disposing of personal information
- Consider conducting background checks on all employees with access to identifying information including mailroom staff, clean-up crews, customer service technicians and temporary workers
- For your protection in case of a lawsuit, formalize your information disposal program including maintaining detailed documentation of each security measure you establish.

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Because the concern of accident underreporting is valid, some experts recommend substituting or adding a more process-based approach as opposed to a strictly results-based incentive program. A process-based system provides incentives for engaging in safety behaviors such as participating in safety training or earning a high mark on a safety quiz. Result-based approaches typically just provide rewards for accident-free time periods.

Once the overall approach is selected, the details of the program should be designed carefully with thoughtful consideration given to selecting the appropriate goals and rewards, establishing methods of evaluating and recording performance and determining how and when rewards will be given.

- 4. Meaningful Rewards Given Often** - Common rewards include cash bonuses, time off work and gift certificates. Whatever you choose, make sure it has value to your workers and can be earned frequently enough to remain a top-of-mind goal.

Recognition can also be an effective part of an incentive

program. For instance, rewards can be handed out at an awards banquet or along with a plaque.

- 5. Communicate Effectively and Frequently** - First and foremost, management should be proactive by emphasizing that hiding or not reporting injuries is strictly prohibited and that such acts will have consequences. Supervisors should clearly communicate how the program works and how employees' progress will be measured - an ambiguous program is an ineffective one. To maintain incentive and keep the momentum, your employees should be continually reminded about the program and updated about how they are doing.
- 6. Keep It Fun** - A safety incentive program should be a light-hearted, fun addition to your workplace and a way to demonstrate to employees that you care about their safety so much that you want to reward those who work safely.

If the program is conducted thoughtfully and thoroughly, it will not only help reduce costly accidents and injuries, but also help boost the morale within your organization.



Understanding Enterprise Risk Management as an Approach to Manage and Capitalize on Risks

The concept of Enterprise Risk Management (ERM) has received increased attention in recent years as a fundamental shift in the way companies approach risk. ERM is an all-encompassing approach to risk management and this can often make implementing ERM seem overwhelming. To make the process more palatable, the Commission of Sponsoring Organizations of the Treadway Commission (COSO), a voluntary private-sector financial reporting organization, has released the first ERM framework.

When compared to the traditional approach of addressing risks associated with accidental losses, ERM has a holistic approach that covers both insurable and traditionally non-insurable risks including financial, operations, strategic and other risks. The process applies to managing risk and also capitalizing on it for growth. Proponents say that ERM may improve capital efficiencies in that it provides an objective measure for allocating resources.

Sometimes called business risk management or strategic risk management, this systematic approach is attractive in that it ensures uniform risk identification and treatment throughout an organization. ERM is inherently collaborative and requires a risk team including accounting, marketing, research and development, treasury and operations management.

Released in September 2004, COSO's Enterprise Risk Management – Integrated Framework describes the essential components, principals and concepts of ERM for organizations of all sizes. It establishes a uniform language for identifying risks, avoiding pitfalls and seizing opportunities for growing shareholder value.

Eight interrelated components outlined in the Framework are:

- **Internal Environment** – Establishes the entity's risk culture by establishing a philosophy regarding risk management.
- **Objective Setting** – Involves setting objectives and forming a risk strategy. This step forms the risk appetite of an organization, how much risk management and the board members are willing to accept. Aligned with risk appetite is risk tolerance, the acceptable level of variation around objectives.
- **Event Identification** – Differentiates risks and opportunities by identifying events, occurring internally and externally, that may have a negative impact and those that may have a positive impact.
- **Risk Assessment** – Assesses the likelihood and impact that potential events could have on objectives. Involves qualitative and quantitative risk assessment methodologies.
- **Risk Response** – Identifies and evaluates possible responses to risk.
- **Control Activities** – Lays out policies and procedures at all organizational levels and in all functions, which help ensure that risk responses are carried out.
- **Information and Communication** – A form and timeframe to broadly communicate pertinent information enabling the risk management team to fulfill their responsibilities.
- **Monitoring** – Ongoing monitoring activities as well as specific planned evaluations determine the effectiveness of an organization's ERM.

The Framework also defines the roles and responsibilities of key ERM team members including management, board of directors, risk offices and internal auditors. For more information about the Framework and to order print or electronic copies, visit www.coso.org.

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- If you must sandblast, use type CE positive pressure abrasive blasting respirators.
- Participate in air monitoring, medical surveillance, and training programs.

As important as it is to monitor silica exposure on the jobsite, it is just as important to monitor your employees to see if they are practicing good silica hygiene before, during and when they leave work. Train them to change into washable work clothes on site. If possible, provide them with a shower so that they can wash and change into clean clothing before leaving. Insist that they avoid eating, drinking, or using

tobacco products in work areas where there is dust or other toxic materials. Most importantly, they should wash their hands and face before eating or drinking.

To further help you prevent silica exposure; OSHA has developed The Silica eTool. It includes current information that will assist businesses owners in identifying potential silica hazards by choosing correct sampling and analytical techniques, comparing monitoring results with acceptable exposure limits, and selecting appropriate control options. To download it, log on to <http://www.osha.gov/SLTC/etools/silica/index.html>.

Six Steps to an Effective Safety Incentive Plan

Many companies are implementing safety incentive programs, hoping that by rewarding employees for good safety records, they will cultivate a safer work environment and reduce costly workers' compensation claims. Some employers are concerned, however, that safety incentive programs can actually lead to a more dangerous work environment where injuries are underreported in pursuit of rewards. To make sure a safety incentive program is a positive addition to your company's safety program, several factors should be considered.

- 1. The Icing, Not the Cake** - Most importantly, incentive programs should be just an added layer to your already strong and comprehensive safety program. Employees cannot improve their performance if they do not have the appropriate safety training needed to recognize and mitigate hazards. The bottom line is that safety incentive programs will not reduce injury rates and should not be implemented if you do not already have an effective safety program in place.
- 2. Support from the Top Down** - To convey the importance of the program to employees, upper management should be committed and involved and not just in the initial design and launch stages. They must be visible on an ongoing basis, frequently communicating to their employees about the program and taking an active role in distributing the rewards.



- 3. Smart Design** - Poor design and administration are the most commonly cited reasons for incentive program failure.

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TOBIAS

INSURANCE GROUP, INC.

9247 North Meridian Street, Suite 300
P.O. Box 90380
Indianapolis, IN 46290

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