

## Silica

HSC/06/02 July 2006.

### Results of Consultation on Proposals for a Workplace Exposure Limit (WEL) for Respirable Crystalline Silica

HSE express a view that good practice would take precedence over compliance with workplace exposure levels when deciding on enforcement action. The logic is that good practice provides a sustainable degree of protection whereas compliance with exposure levels could be fortuitous.

On the way to setting a new workplace exposure limit for respirable crystalline silica, HSC consulted with ~ 30 respondents. There were some substantive objections to the proposed WEL of 0.1 mg/m<sup>3</sup>. Among these:

**Infrequent exposures:** *It was noted that exposures in some sectors are periodic leading to lower health risks. Also, certain tasks not carried out on a daily basis can lead to exposures that exceed the proposed WEL. The possibility of using weekly averaging of exposure as a means of allowing for intermittent high exposures was suggested. HSE has considered this suggestion but feels it is impractical in terms of compliance and enforcement. Enforcement is conducted on the basis of continued over-exposure because of [resulting from] poor control practice. If control is poor but exposure is only sporadic, advice on improving control would be appropriate (because sporadic exposure could change in the future).*

#### Comment

This is a helpful clarification of the WEL regime which sets both exposure limits and good practice as the basis of enforcement action. Precedence is clearly given to good practice. Sporadic exposure to levels higher than the WEL (and therefore compliant on average) could easily turn into continuous exposures (and therefore non compliant) should the demands of the work vary. The civil law usually works on an assessment of what actually happened, not what could have happened and so, by this logic should give precedence to any actual measures of exposure (if available). In the absence of objective measures the good practice identified by HSE would be the standard by which a breach of duty would be assessed. It seems likely that these good practice standards would be more precautionary.

The notion of intermittent exposures is the basis for a more relaxed approach to some asbestos containing materials and inspired by Directive 2003/18/EC. There could be some inconsistency of approach here.