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Finally it’s time to protect the workers.

https://www.osha.gov/silica/

Dan Mufson, President
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Rule requires engineering controls to keep workers from breathing silica dust

The Occupational Safety and Health Administration (OSHA) has issued a final rule to curb lung cancer, silicosis, chronic obstructive pulmonary disease and kidney disease in America's workers by limiting their exposure to respirable crystalline silica. The rule is comprised of two standards, one for Construction and one for General Industry and Maritime.

OSHA estimates that the rule will save over 600 lives and prevent more than 900 new cases of silicosis each year, once its effects are fully realized. The Final Rule is projected to provide net benefits of about $7.7 billion, annually.

About 2.3 million workers are exposed to respirable crystalline silica in their workplaces, including 2 million construction workers who drill, cut, crush, or grind silica-containing materials such as concrete and stone, and 300,000 workers in general industry operations such as brick manufacturing, foundries, and hydraulic fracturing, also known as fracking. Responsible employers have been protecting workers from harmful exposure to respirable crystalline silica for years, using widely-available equipment that controls dust with water or a vacuum system.

Key Provisions

- Reduces the permissible exposure limit (PEL) for respirable crystalline silica to 50 micrograms per cubic meter of air, averaged over an 8-hour shift.
- Requires employers to: use engineering controls (such as water or ventilation) to limit worker exposure to the PEL; provide respirators when engineering controls cannot adequately limit exposure; limit worker access to high exposure areas; develop a written exposure control plan, offer medical exams to highly exposed workers, and train workers on silica risks and how to limit exposures.
- Provides medical exams to monitor highly exposed workers and gives them information about their lung health.
- Provides flexibility to help employers — especially small businesses — protect workers from silica exposure.

Compliance Schedule

Both standards contained in the final rule take effect on June 23, 2016., after which industries have one to five years to comply with most requirements, based on the
following schedule:

**Construction** - June 23, 2017, one year after the effective date.

**General Industry and Maritime** - June 23, 2018, two years after the effective date.

**Hydraulic Fracturing** - June 23, 2018, two years after the effective date for all provisions except Engineering Controls, which have a compliance date of June 23, 2021.

**Background**

The U.S. Department of Labor first highlighted the hazards of respirable crystalline silica in the 1930s, after a wave of worker deaths. The department set standards to limit worker exposure in 1971, when OSHA was created. However, the standards are outdated and do not adequately protect workers from silica-related diseases. Furthermore, workers are being exposed to silica in new industries such as stone or artificial stone countertop fabrication and hydraulic fracturing.

A full review of scientific evidence, industry consensus standards, and extensive stakeholder input provide the basis for the final rule, which was proposed in September 2013. The rule-making process allowed OSHA to solicit input in various forms for nearly a full year. The agency held 14 days of public hearings, during which more than 200 stakeholders presented testimony, and accepted over 2,000 comments, amounting to about 34,000 pages of material. In response to this extensive public engagement, OSHA made substantial changes, including enhanced employer flexibility in choosing how to reduce levels of respirable crystalline silica, while maintaining or improving worker protection.

**More Information and Assistance**

OSHA looks forward to working with employers to ensure that all workers exposed to respirable crystalline silica realize the benefits of this final rule. Please check back for frequent updates on compliance assistance materials and events, and learn about OSHA’s on-site consulting services for small business.

OSHA approved State Plans have six months to adopt standards that are at least as effective as federal OSHA standards. Establishments in states that operate their own safety and health plans should check with their State Plan for the implementation date of the new standards.
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Self-reporting just doesn’t work—whether it’s for silica, wine production or concussions.

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N.F.L.’s Flawed Concussion Research and Ties to Tobacco Industry

By ALAN SCHWARZ, WALT BOGDANICH and JACQUELINE WILLIAMS  MARCH 24, 2016

The National Football League was on the clock.

With several of its marquee players retiring early after a cascade of frightening concussions, the league formed a committee in 1994 that would ultimately issue a succession of research papers playing down the danger of head injuries. Amid criticism of the committee’s work, physicians brought in later to continue the research said the papers had relied on faulty analysis.

Now, an investigation by The New York Times has found that the N.F.L.’s concussion research was far more flawed than previously known.

For the last 13 years, the N.F.L. has stood by the research, which, the papers stated, was based on a full accounting of all concussions diagnosed by team physicians from 1996 through 2001. But confidential data obtained by The Times shows that more than 100 diagnosed concussions were omitted from the studies — including some severe injuries to stars like quarterbacks Steve Young and Troy Aikman. The committee then calculated the rates of concussions using the incomplete data, making them appear less frequent than they actually were.

After The Times asked the league about the missing diagnosed cases — more than 10 percent of the total — officials acknowledged that “the clubs were not
required to submit their data and not every club did.” That should have been made clearer, the league said in a statement, adding that the missing cases were not part of an attempt “to alter or suppress the rate of concussions.”

One member of the concussion committee, Dr. Joseph Waeckerle, said he was unaware of the omissions. But he added: “If somebody made a human error or somebody assumed the data was absolutely correct and didn’t question it, well, we screwed up. If we found it wasn’t accurate and still used it, that’s not a screw-up; that’s a lie.”

These discoveries raise new questions about the validity of the committee’s findings, published in 13 peer-reviewed articles and held up by the league as scientific evidence that brain injuries did not cause long-term harm to its players. It is also unclear why the omissions went unchallenged by league officials, by the epidemiologist whose job it was to ensure accurate data collection and by the editor of the medical journal that published the studies.

In 2013, the N.F.L. agreed to a $765 million settlement of a lawsuit in which retired players accused league officials of covering up the risks of concussions. Some players have appealed the settlement, asking for an examination of the committee’s concussion research.

Some retired players have likened the N.F.L.’s handling of its health crisis to that of the tobacco industry, which was notorious for using questionable science to play down the dangers of cigarettes.

Concussions can hardly be equated with smoking, which kills 1,300 people a day in the United States, and The Times has found no direct evidence that the league took its strategy from Big Tobacco. But records show a long relationship between two businesses with little in common beyond the health risks associated with their products.

In a letter to The Times, a lawyer for the league said, “The N.F.L. is not the tobacco industry; it had no connection to the tobacco industry,” which he called “perhaps the most odious industry in American history.”

Still, the records show that the two businesses shared lobbyists, lawyers and
consultants. Personal correspondence underscored their friendships, including dinner invitations and a request for lobbying advice.

In 1997, to provide legal oversight for the committee, the league assigned Dorothy C. Mitchell, a young lawyer who had earlier defended the Tobacco Institute, the industry trade group. She had earned the institute’s “highest praise” for her work.

A co-owner of the Giants, Preston R. Tisch, also partly owned a leading cigarette company, Lorillard, and was a board member of both the Tobacco Institute and the Council for Tobacco Research, two entities that played a central role in misusing science to hide the risks of cigarettes.

The N.F.L.’s concussion committee began publishing its findings in 2003 in the medical journal Neurosurgery. Although the database used in the studies contained numerical codes for teams and players, The Times decoded it by cross-referencing team schedules and public injury reports.

The N.F.L.’s concussion studies have faced questions since they were published, but even the league’s harshest critics have never suggested, and no evidence has ever arisen, that the underlying data set could be so faulty.

“One of the rules of science is that you need to have impeccable data collection procedures,” said Bill Barr, a neuropsychologist who once worked for the Jets and who has in the past criticized the committee’s work.

By excluding so many concussions, Mr. Barr said, “You’re not doing science here; you are putting forth some idea that you already have.”

The Work Begins

In an introduction to the first of the concussion committee’s papers, the league’s commissioner at the time, Paul Tagliabue, acknowledged the need for “independent scientific research” to better understand the risks of concussions.

“As we looked more deeply into the specific area of concussions, we realized that there were many more questions than answers,” Mr. Tagliabue wrote.
The committee’s chairman, Dr. Elliot Pellman, the team physician for the Jets, emphasized that his group aimed to produce research that was “independent” and “meticulous.”

In fact, most of the dozen committee members were associated with N.F.L. teams, as a physician, neurosurgeon or athletic trainer, which meant they made decisions about player care and then studied whether those decisions were proper. Still, the researchers stated unambiguously — in each of their first seven peer-reviewed papers — that their financial or business relationships had not compromised their work.

The committee said it analyzed all concussions diagnosed by team medical staffs from 1996 through 2001 — 887 in all. Concussions were recorded by position, type of play, time missed, even the brand of helmet.

The committee’s statements emphasized the completeness of the data.

“It was understood that any player with a recognized symptom of head injury, no matter how minor, should be included in the study,” one paper said.

And in confidential peer-review documents, the committee wrote that “all N.F.L. teams participated” and that “all players were therefore part of this study.”

Those statements are contradicted by the database.

The Times found that most teams failed to report all of their players’ concussions. Over all, at least 10 percent of head injuries diagnosed by team doctors were missing from the study, including two sustained by Jets receiver Wayne Chrebet, who retired several years later after more concussions. Dr. Pellman, the Jets’ physician, led the research and was the lead author on every paper.

According to the research papers, team physicians were to fill out forms specially designed for the studies to submit information about concussions — a system that went well beyond the league’s standard injury-reporting protocols. In one paper, the committee wrote, “The Commissioner of the N.F.L. mandated all team physicians to complete and return forms whenever they examined a player with a head injury.”
But after The Times described how it had identified missing concussions, the N.F.L. said this week that the studies, in fact, “never purport[ed]" to include all concussions.

Teams were “not mandated” to participate, the league said, only “strongly encouraged.” And some teams, a spokesman said, “did not take the additional steps of supplying the initial and/or follow-up forms.” He did not explain why some teams had not included all concussions identified by medical personnel.

The league explained, as did the papers, that some concussions went undiagnosed in the first place because players are known to occasionally hide their symptoms of concussion from team doctors; that symptoms of concussion can be so brief that no one notices; and that doctors might have used different criteria to make concussion diagnoses.

But the vast majority of omitted concussions identified by The Times were included in the N.F.L.’s public injury reports, meaning that medical staffs had made the diagnoses and reported them to the league. Some of the omitted concussions were reported by the teams to the news media after a game but do not appear on the injury reports, presumably because the player’s status for the next game was not in doubt.

The database does not include any concussions involving the Dallas Cowboys for all six seasons, including four to Mr. Aikman that were listed on the N.F.L.’s official midweek injury reports or were widely reported in the news media. He and many other players were therefore not included when the committee analyzed the frequency and lasting effects of multiple concussions.

Several other teams have no concussions listed for years at a time. Yet the committee’s calculations did include hundreds of those teams’ games played during that period, which produced a lower overall concussion rate.

A Cowboys spokesman, Rich Dalrymple, said the team had participated, but he declined to say how many cases were reported and which players were involved. He said he did not know why the Cowboys’ data did not appear in the studies. A San Francisco 49ers spokesman did not return messages seeking comment about Mr. Young.
Dr. Robert Cantu, one of the peer reviewers who at the time criticized the committee's analyses, said, "It should be an unmistakable red flag that a team does not report any concussions over multiple years."

Some injuries were more severe than what was reflected in the official tally. According to committee records, St. Louis Rams quarterback Kurt Warner sustained a concussion on Dec. 24, 2000, that healed after two days. But Mr. Warner's symptoms continued, and four weeks later he was ruled out of the Pro Bowl with what a league official described as lingering symptoms of that head injury.

The N.F.L. declined to make Dr. Pellman available for an interview. The study's epidemiologist, John Powell, who no longer works on behalf of the league, did not respond to interview requests. Michael L. J. Apuzzo, editor of Neurosurgery when the papers were published, did not respond to interview requests.

The committee and the N.F.L. have long claimed that the papers were vetted through a rigorous, confidential peer-review process before publication, which legitimized their methods and conclusions. But more than a dozen pages of anonymous back-and-forth between reviewers and the committee show some reviewers almost desperate to stop the papers' publication while the authors brushed aside criticism.

One reviewer wrote, "Many of the management of concussion suggestions are inappropriate and not founded on facts." Another said the committee's assertion that the league was handling concussions too cautiously was not proved and was therefore "potentially dangerous."

An author of the N.F.L. studies responded, "If the truth is dangerous, then I suppose our results are dangerous."

**Overlapping Interests**

In 1992, amid rising concerns about concussions, Mr. Tisch — the Giants and Lorillard part owner — asked the cigarette company's general counsel, Arthur J. Stevens, to contact the N.F.L. commissioner at the time, Mr. Tagliabue, about
certain legal issues.

Mr. Stevens was not just any tobacco lawyer; he was a member of the industry’s secretive Committee of Counsel, which helped direct tobacco research projects. In a letter obtained by The Times, Mr. Stevens referred Mr. Tagliabue to two court cases alleging that the tobacco and asbestos industries had covered up the health risks of their products.

In one case, the family of a dead smoker sought internal documents that the tobacco industry had withheld on the grounds of lawyer-client privilege — which does not apply if invoked to cover up a crime. The judge in the case reacted angrily after reading those internal records.


Why an influential tobacco lawyer would recommend legal cases to the N.F.L. is not known, because neither Mr. Stevens nor Mr. Tagliabue would agree to be interviewed. Mr. Tisch died in 2005.

Joe Lockhart, a league spokesman, said that the cases involved potential bias of judges and that there was no evidence that the letter "was taken seriously."

Even so, records show that, in the legal arena, the league and the tobacco industry sometimes intersected.

Before joining the N.F.L., Ms. Mitchell, a young Harvard Law School graduate, had been one of five lawyers at Covington & Burling who had provided either lobbying help or legal representation to both the N.F.L. and the tobacco industry, sometimes in the same year. Mr. Tagliabue had been a partner at the firm before becoming the N.F.L.'s commissioner.

In 1992, Ms. Mitchell defended the Tobacco Institute against a smoker's lawsuit. She also worked on behalf of the institute in a landmark secondhand smoke case, as well as for other nontobacco clients. Ms. Mitchell said she was not responsible for legal strategy in the tobacco cases.
At the N.F.L., said Brian McCarthy, a league spokesman, Ms. Mitchell's work for the concussion committee was administrative. "She did not have any responsibility or any role in directing the research," he said.

Dr. Waeckerle, the concussion committee member, offered a different view.

He said Ms. Mitchell asked committee members: "How can this affect us? How can this be studied? How should we view it? Is this a legitimate concern, or is this part of somebody's zeal, and do we need to be concerned?"

Dr. Waeckerle praised her for bringing a nonmedical voice that made members consider the risks, benefits and "what are the intended and nonintended consequences of whatever we were discussing." He said, for example, that she wanted to ensure that the committee's work applied only to the N.F.L., not to college or youth football.

Ms. Mitchell said in an interview that she left the N.F.L. after six years for personal reasons, unrelated to her work, and that she did not recall much about the committee's work.

"I don't think I saw any reports," she said. "It was in the early stages."

Ms. Mitchell added that, as the league's assistant secretary, she had broad responsibilities beyond health and safety issues.

Her contributions to the concussion committee won her thanks in five research papers — three by the N.F.L. and two by a Canadian company that did contract work for the N.F.L. The committee wrote that she worked "tirelessly to initiate" its research and that "her efforts paved the way for successful completion of the research."

On at least two occasions in the 1970s and 1980s, the N.F.L. hired a company whose client list included the Tobacco Institute to study player injuries. The league also hired a company — for a matter unrelated to player safety — that had performed a study for the tobacco industry that played down the danger of secondhand smoke.

The N.F.L.'s ties to tobacco are reflected in other ways. When Congress was
considering legislation that dealt with when a team owner could relocate a franchise, Joe Browne, a league official sought lobbying advice from a representative of the Tobacco Institute.

"I would like to take the opportunity to sit down and discuss this bill with you further," Mr. Browne said in a 1982 letter to the institute's president, Sam Chilcote.

Neil Austrian, a former N.F.L. president, had previously run an advertising agency that under his leadership reversed its ban on taking tobacco clients. He called Philip Morris "an honorable company that sets high standards." It was during his tenure at the N.F.L. that the concussion committee was created.

Years later, when the committee's work drew criticism during the peer review process, its members pushed back.

"We are aware the findings from the N.F.L. conform some popular opinions," they wrote, "but believe this study stands on its merits based on the physician evaluation of injury and quality assurance of the data."

Andrew W. Lehren contributed reporting.

A version of this article appears in print on March 25, 2016, on page A1 of the New York edition with the headline: N.F.L. concussion studies found to have deep flaws.
Dear Supervisors of the County of Napa,

This note is to inform you of my vehement opposition to the increase in quarrying activity in and around Skyline Park. The list of potentially significant impacts to the environment outweighs any benefit to our community by way of a few jobs. There are many hills to quarry, but those few, pristine hills in our only extensive public hiking/recreational area should be left untouched.

You have a commitment to the park, per Skyline's Master Plan. Please fulfill this commitment to Napa's only Wilderness Park and either reject the expansion or attach conditions of approval which ensure a wilderness experience in perpetuity. These conditions should include:

- a 300’ setback of mining from park land
- no mining on the north and east sides of Pasini Knoll (the sides facing the park)
- a reduction of the term of the permit from 35 to 10 years with a possibility of renewal based on fidelity to environmental commitments
- independent monitoring of the project, paid for by Syar but selected by and reporting to the County

We constituents beg you to fulfill your commitment to SWP and not just give in to the myopic demands of Big Business. You hold the character of the City of Napa in your hands as you make these important decisions.

Thank you,

Elaine Williams
Dear Supervisors of the County of Napa,

This note is to inform you of my vehement opposition to the increase in quarrying activity in and around Skyline Park. The list of potentially significant impacts to the environment outweighs any benefit to our community by way of a few jobs. There are many hills to quarry, but those few, pristine hills in our only extensive public hiking/recreational area should be left untouched.

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Thank you,

Dennis Hancock

Alea iacta est.
Dear Supervisors of the County of Napa,

This note is to inform you of my vehement opposition to the increase in quarrying activity in and around Skyline Park.

I especially feel concerned about the risk of silicosis in our population and in our animals. We live on Third Ave and had to have one of our horses euthanized that had silicosis. A good friend of mine also had to have her horse euthanized due to silicosis. That horse was boarded at Wild Horse Valley ranch. I wonder how common it is in Napa to see horses with silicosis that live near Skyline park?

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Thank you,

Jackie McGrath

Sent from my iPad