Designating a “Competent Person” Under OSHA’s General Construction Standard and the Silica Rule

OSHA requires all construction employers to designate at least one individual as a “competent person” (CP). OSHA identifies slightly different requirements and responsibilities for a CP based on its standard applicable to the work activity. A list of all OSHA standards that require or are related to a CP can be found at https://www.osha.gov/SLTC/competentperson/standards.html.

In general, a CP is an individual able to recognize hazards associated with a particular task and authorized and able to take prompt corrective measures to mitigate those hazards. Many OSHA construction standards require a designated CP to visit the job site frequently and mitigate any hazards identified. Individuals such as a foreman or supervisor may be best in a position to act at a CP; however, OSHA does not provide an individual standard or prescribe specific training for designating a CP.

Although some individual OSHA construction standards, such as Excavations (1926.650), Fall Protection (1926.502), and Lead (1926.62) require a CP for discreet activities, all construction employers must designate a CP under OSHA’s General Safety and Health Provisions (1926.20 and 1926.32). Furthermore, under OSHA’s Silica Standard, which applies to the majority of road construction activities, the designated CP carries additional responsibilities.

**Competent Person: General Safety and Health Provisions**

Under the OSHA General Safety and Health Provisions (29 CFR 1926.20 and 1926.32), a CP is someone “who is capable of identifying existing and predictable hazards in the surroundings or working conditions which are unsanitary, hazardous, or dangerous to employees, and who has authorization to take prompt corrective measures to eliminate them.” Under these provisions, an employer must initiate and maintain programs to prevent accidents. These programs “shall provide for frequent and regular inspections of the job sites, materials, and equipment to be made by competent persons designated by the employers.”

Phil Colleran, a former OSHA compliance officer, explained to Safety+Health magazine that meeting the “competent person” definition requires more than taking a training course. “Just because you sat through a 10-hour course isn’t alone in determining your competency.

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1 The definition of a construction sector employer is generally based on the type of work performed and/or the company’s SIC or NAICS code. Contractors or employers that perform roadway construction are often classified under SIC 1611 (Highway and Street Construction, except Elevated Highways) and/or NAICS 237310 (Highway, Street and Bridge Construction) and would therefore be required to meet OSHA Safety and Health Regulations for Construction at 29 CFR 1926, including these Competent Person requirements.
Competence is demonstrated, not certified,” he said. An employer-designated CP must have the authority to take immediate corrective action to mitigate any hazard.

**Competent Person: Silica Standard**

Under OSHA’s Silica Standard for Construction Activities (29 CFR 1926.1153), A CP has additional specific responsibilities. Under this standard, a CP is “an individual who is capable of identifying existing and foreseeable respirable crystalline silica hazards in the workplace and who has authorization to take prompt corrective measures to eliminate or minimize them.” Furthermore, the competent person “must have the knowledge and ability necessary to” implement the company’s written silica exposure control plan. The silica CP may also act as a company’s CP under the General Safety and Health Provisions, or different workers may fill the different provisions.

Although there are other requirements associated with the Silica Rule, the silica CP is singularly responsible for implementing the written exposure control plan. This plan is established by the employer and must contains, at a minimum, the following elements (see 29 CFR 1926.1153(g)):

- A description of the tasks in the workplace that involve exposure to respirable crystalline silica;
- A description of the engineering controls, work practices, and respiratory protection used to limit employee exposure to respirable crystalline silica for each task;
- A description of the housekeeping measures used to limit employee exposure to respirable crystalline silica; and
- A description of the procedures used to restrict access to work areas, when necessary, to minimize the number of employees exposed to respirable crystalline silica and their level of exposure, including exposures generated by other employers or sole proprietors.

The standard specifies that the employer must designate a CP to make frequent and regular inspections of job sites, materials, and equipment to implement the written exposure control plan; review and evaluate the effectiveness of the written exposure control plan at least annually and update it as necessary; and make the written exposure control plan readily available, upon request, to employees, their designated representatives, and OSHA.

The Laborers’ Health and Safety Fund of North America provides the following additional clarification and interpretation on these CP requirements in its *Guide to Competent Persons*:

**Duties of the Competent Person**

- Implement the employer’s written silica protection program;
- Oversee or conduct silica hazard assessments and ensure compliance with all state, local and federal requirements; and
- Make frequent and regular inspections of job sites, materials and equipment to implement the written exposure control plan.
What They Need to Know

• The OSHA Silica Standard (1926.1153) requirements and the hazards of silica exposure.
• Common tasks that result in silica exposure and the potential for exposure from each task (including specified exposure control methods in OSHA Table 1).
• How to take bulk samples and identify the presence of silica in a material (e.g., from the safety data sheet).
• When to call in a qualified person to identify hazardous exposures.
• How to interpret and use industrial hygiene sampling reports and exposure assessments.
• The controls used to reduce exposure to silica including:
  o identifying when those controls are not operating properly, and
  o maintaining the controls in good working order.
• The hierarchy of controls and how to apply those controls properly.
• How to take corrective actions to prevent overexposures to silica.
• The appropriate respiratory protection to reduce silica exposure and protect workers.

When They Should Stop Work

• When the controls are not working properly and/or when sampling results indicated controls are insufficient and exceed the PEL.
• When a new process or task is introduced that requires an exposure assessment.
• When respiratory protection is not being used properly.
• When bystanders are being exposed and need to be removed from the area.

Conclusion

Designating a CP should not be taken lightly. A CP is the first line of defense on a job site for identifying and mitigating predictable and unexpected workplace hazards. The CP must rely on knowledge gained through his or her skills, expertise, experiences, and training.

Although OSHA does not mandate any particular role, title, or job responsibilities that a CP should hold, nor how many CPs a construction company should designate, OSHA does generally specify that a CP should have frequent accessibility, familiarity, and requisite authority at a construction site.

NAPA provides the following additional guidance in designating a CP with emphasis on compliance with the Silica Rule:

➢ A CP is someone who “can identify existing and foreseeable respirable crystalline silica hazards; is authorized to promptly eliminate or minimize silica hazards; [and] has the knowledge and ability to implement the written exposure control plan”.

➢ The employer is responsible for determining what training is needed to designate a CP
➢ CP duties include frequent and regular job site/equipment inspections, as well as implementation of the silica exposure control plan

➢ The CP doesn’t necessarily need to remain on the job site, but does need the authority to take prompt corrective action, which may include halting work

➢ NAPA recommends a crew chief, foreperson, or other supervisor-type individual who regularly works on or inspects a job site to be identified as the CP, assuming they are trained appropriately.

Because it is the employer’s responsibility to provide appropriate and relevant training to its designated CP(s), no single training system or program is recommended. While it is not NAPA’s intent to provide actual CP training with this Special Report, it does identify relevant resources employers can use in training and designating their competent person(s) under OSHA’s General Construction and Silica Standards. Many companies designate a single individual to serve as CP under both standards.

**Online Training Resources**

The following online resources provide additional background and training information for designating a CP under OSHA’s General Construction Standard and Silica Rule.


- Construction Safety Council “Work Zone Hazards Workbook,” which discusses the need for a CP on a work zone job site: [https://www.osha.gov/dte/grant_materials/fy08/sh-17795-08/workzone_hazards_awareness_english.pdf](https://www.osha.gov/dte/grant_materials/fy08/sh-17795-08/workzone_hazards_awareness_english.pdf)


- Safety training vendor information:
  - [http://www.safetypartnersltd.com/competent-person-training-competent-person-important/#.WUfa_-3ysz4](http://www.safetypartnersltd.com/competent-person-training-competent-person-important/#.WUfa_-3ysz4)

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