NSSGA®

NATIONAL STONE, SAND & GRAVEL ASSOCIATION

NSSGA Views on the MSHA Silica Rule

NSSGA and its member companies are committed to protecting the safety and health of its most precious resource: workers. Aggregates producers go to great lengths, at many companies above and beyond current regulations and laws, to provide safe and healthy work environments.

That is why we are working with MSHA as they update a decades-old silica standard, and our members support lowering permissible silica exposure levels to align with OSHA's standard set in 2016.

We fully support the intention of MSHA's proposed silica standard, including lowering the permissible exposure limit (PEL), creation of sampling requirements and installation of a medical surveillance program (new for metal/non-metal (M/NM) operations). However, in administering the standard, MSHA must ensure the realities of the entire mining industry are reflected, especially as it pertains to differences between M/NM and coal.

- Coal mining accounts for a small fraction of mining in the United States. There are approximately 12,500 mines in the US and roughly 11,600 (93%) are M/NM; furthermore, of these M/NM mines, more than 9,500 are small operations with 10 or fewer employees. Central Appalachian coal accounts for less than 5% of mining in the US.
- Extracting aggregates is a different process than extracting coal in the Appalachian region. Most aggregates extraction occurs in open and well-ventilated pits versus confined spaces.
- Many aggregates operations mine deposits with little or no silica. Additionally, some aggregates operations are wet – the operations mines via a dredge, which "mines" sand and gravel in water, and the sand and gravel are sold wet.
- There is no evidence of a silicosis crisis in MNM and many companies (including industrial sand, which mines material that is greater than 95% crystalline silica in the form of quartz) have had sampling and medical surveillance programs in place for decades.

Recommendations for Silica Rule:
Generally, follow the OSHA silica standard, which was finalized by the DoL under the Obama/Biden Administration in 2016. This approach is protective of worker health, supported by the industrial hygiene community, and will reduce operator burden (especially on small operators).

Following this framework will also prevent backlogs at labs and with medical surveillance providers so finite resources can be allocated where they are most needed: to miners exposed to respirable crystalline silica. We support the following policies:

- PEL of 50 μg/m^3, and we do not oppose an action level of 25μg/m^3
- Require exposure assessments (i.e., sampling) per OSHA that follows industrial hygiene best practices and is less prescriptive than MSHA's complicated proposed sampling process.
- Include a "Table 1" like OSHA adopted in its final 2016 construction standard that lists tasks and *known* and *auditable* engineering controls that limit exposures.
- Require that mine operators offer medical surveillance to miners at risk of silica exposures rather than all miners regardless of exposure.

Extend the effective date. The OSHA general industry standard received a two-year effective date (June 2018). The proposed effective date of 120 days (about 4 months) in the MSHA standard does not provide enough time to implement the currently proposed controls, sampling, and medical surveillance requirements, especially for small operators.

- The current infrastructure of testing labs and surveillance clinics does not exist to implement the proposed standards. There will be severe backlogs and supply chain shortages.