

Gale Lim Construction, L.L.C.
301 North 700 West, Blackfoot, ID. 83221
Business Phone: 208-684-9299
Fax: 208-684-9599
Korib.glc@gmail.com

September 11th, 2023

S. Aromie Noe,
Director Office of Standards,
Regulations, and Variances Mine Safety and Health Administration (MSHA)
201 12th Street South
Suite 4E401
Arlington, Virginia 22202-5450

Re: RIN 1219-AB36, Docket Number: MSHA-2023-0001

Dear Director Noe:

Gale Lim Construction, L.L.C.

The construction industry has been part of our lives for more than 60 years. In 1962, Gale started his career as an equipment operator for Garner-Stone in Blackfoot, Idaho. Gale had a passion for this industry and worked his way up.

With a partner, Gale formed Bengal/Tiger Asphalt. Though a successful operation, Gale still had a strong desire to operate his own construction company. In 1980, Gale followed that dream of a family-owned and operated construction company. That year, he and his wife Becky started Gale Lim Construction. The company was later incorporated in 1985. There have been many people who have worked side by side with us to contribute to the company's success. Our company is involved in heavy construction, and is an integral part of our community, county, multi-state, and country's infrastructure including work at airports. Our company stepped in and helped save multiple houses and parts of the town of Blackfoot when it flooded in July of 1997. The company has always looked out for others in every way possible.

First and foremost is our family. Without them, the company would not be here today. Our daughters Kori, Sheri, Lisa, Shawnee and Amber and their spouses have all worked and contributed to our success. We currently have three generations of family working for us. Our daughters Sheri and Kori work for us full time and are a significant part of our management team. We also have two sons-in-law working for us: Darrin manages the crushing and paving division and Shawn manages the road division. Add to the mix several grandchildren who do everything from basic labor to equipment operation, and you can see that our company is truly a family affair. Gale Lim wants their people to be both safe and healthy. There is no data that supports changing this standard. The opposite is true where huge costs will be incurred, and no miner will go home safer or healthier.

Gale Lim Construction, L.L.C. respectfully requests more time to prepare for this new rule and asks for a 180-day extension to the comment period provided in MSHA's proposed RIN 1219-AB36, Lowering Miners' Exposure: Respirable Crystalline Silica and Improving Respiratory Protection, as published in the Federal Register on July 13, 2023. MSHA has requested comments in 43 specific areas within a 45-day comment period. The time MSHA is giving us is insufficient to provide thoughtful and meaningful comments on all 43 sections.

Information was revealed in the meeting with the Small Business Advocacy Roundtable showed that the MSHA Data Retrieval System only has twenty 7000-1 forms filed for Silicosis in the last 10 years. Of those twenty, only a few showed that a doctor diagnosed Silicosis, and none of the cases listed showed symptoms. This is a coal mining issue, not a Metal/Non-Metal MSHA problem. We care about our miners as many of them are family and friends. The cost this will incur for no reason should not be allowed. Lowering exposure levels will not change exposure when our people aren't exposed to life changing levels. We have been tested for Respirable dust several times with no dust found.

This company has been tested 44 times in 22 years and was cited 5 times during that time. The last time the company was cited was over 9 years ago.

Mine Name: Portable Plant ID # 10-01731:

12/04/2007 Laborer, Bullgang Unlisted Particulate respirable <1% Qtz. 0.15 PEL 0
04/19/2006 Laborer, Bullgang Quartz, respirable, >1 Qtz. Concentration 0.73 PEL 0.31 **Citation**
10/20/2004 Bulldozer Operator Quartz, respirable, >1 Qtz. Concentration 0.95 PEL 1.82
10/20/2004 Front-end Loader Unlisted Particulate respirable <1% Qtz. 0.27 PEL 0
10/20/2004 Bulldozer Operator Quartz, respirable, >1 Qtz. Concentration 0.5 PEL 1.5
06/14/2001 Bulldozer Operator Quartz, respirable, >1 Qtz. Concentration 0.33 PEL 1.33
06/14/2001 Front-end Loader Operator Quartz, respirable, >1 Qtz. Concentration 0.47 PEL 2.61

Mine Name: Portable Plant #2 ID # 10-01857:

06/07/2005 Bulldozer Operator Quartz, respirable, >1 Qtz. Concentration 0.33 PEL 1.33
06/07/2005 Front-end Loader Operator Respirable dust, <.1mg Concentration 0 PEL 0
06/07/2005 Laborer, Bullgang Quartz, respirable, >1 Qtz. Concentration 0.15 PEL 1.45
09/21/2004 Bulldozer Operator Quartz, respirable, >1 Qtz. Concentration 0.44 PEL 2.22
09/21/2004 Crusher Oper/Worker Unlisted Particulate respirable <1% Qtz. 0.13 PEL 0
09/21/2004 Crusher Oper/Worker Quartz, respirable, >1 Qtz. Concentration 0.13 PEL 0.83
09/21/2004 Crusher Oper/Worker Quartz, respirable, >1 Qtz. Concentration 0.5 PEL 2.54
09/21/2004 Supervisor, Co. Official Unlisted Particulate respirable <1% Qtz. 0.15 PEL 0
04/24/2001 Crusher Oper/Worker Quartz, respirable, >1 Qtz. Concentration 0.37 PEL .38
04/24/2001 Supervisor, Co. Official Quartz, respirable, >1 Qtz. Concentration 0.2 PEL .26
04/24/2001 Bulldozer Operator Quartz, respirable, >1 Qtz. Concentration 1 PEL 0.65 **Citation**
04/24/2001 Front-end Loader Operator Quartz, respirable, >1 Qtz. Concentration 0.37 PEL 0.62

Mine Name: Portable Plant #3 ID # 10-01979:

08/07/2019 Crusher Oper/Worker Quartz, respirable, >1 Qtz. Concentration 0.59 PEL 0
08/07/2019 Bulldozer Operator Quartz, respirable, >1 Qtz. Concentration 0.91 PEL 0
08/07/2019 Laborer, Bullgang Quartz, respirable, >1 Qtz. Concentration 0.94 PEL 1.59
08/07/2019 Front-end Loader Operator Quartz, respirable, >1 Qtz. Concentration 0.31 PEL 0
10/11/2017 Crusher Oper/Worker Unlisted Particulate respirable <1% Qtz. 0.17 PEL 0
10/11/2017 Front-end Loader Operator Quartz, respirable, >1 Qtz. Concentration 0.18 PEL 0
06/04/2014 Crusher Oper/Worker Quartz, respirable, >1 Qtz. Concentration 0.72 PEL 0.16

Citation

06/04/2014 Backhoe Operator Respirable dust, <.1mg Concentration 0 PEL 0
03/26/2003 Front-end Loader Unlisted Particulate respirable <1% Qtz. 0.35 PEL 0
03/26/2003 Supervisor, Co. Official Respirable dust, <.1mg Concentration 0 PEL 0

Mine Name: Portable Plant #4 ID # 10-02154:

11/07/2017 Crusher Oper/Worker Quartz, respirable, >1 Qtz. Concentration 0.19 PEL 0.95
11/07/2017 Front-end Loader Operator Quartz, respirable, >1 Qtz. Concentration 0.16 PEL 0.88
04/01/2015 Crusher Oper/Worker Quartz, respirable, >1 Qtz. Concentration 0.17 PEL 0.21
04/01/2015 Front-end loader Operator Respirable dust, <.1mg Concentration 0 PEL 0
03/30/2010 Crusher Oper/Worker Quartz, respirable, >1 Qtz. Concentration 0.19 PEL 0.29
03/30/2010 Bulldozer Operator Quartz, respirable, >1 Qtz. Concentration 0.18 PEL 0.39
03/30/2010 Front-end Loader Operator Respirable dust, >.1mg Concentration 0 PEL 0

Mine Name: Portable Plant #5 ID # 10-02206:

10/04/2017 Front-end Loader Operator Respirable dust, <.1mg Concentration 0 PEL 0
10/04/2017 Laborer, Bullgang Unlisted Particulate respirable, <1% Qtz. Concentration 0.14 PEL 0
04/11/2013 Crusher Oper/Worker Quartz, respirable, >1 Qtz. Concentration 1.07 PEL 0.49

Citation

04/11/2013 Bobcat Operator Quartz, respirable, >1 Qtz. Concentration 0.6 PEL 0.22 **Citation**
04/11/2013 Front-end Loader Operator Quartz, respirable, >1 Qtz. Concentration 0.17 PEL 0.38
06/30/2010 Crusher Oper/Worker Quartz, respirable, >1 Qtz. Concentration 0.22 PEL 0.26
06/30/2010 Laborer, Bullgang Quartz, respirable, >1% Qtz. Concentration 0.4 PEL 0.78
06/30/2010 Front-end Loader Operator Respirable dust, <.1mg Concentration 0 PEL 0

The final rulemaking process will be better served by providing sufficient time to review each of the 43 sections to find out how our company will be affected by all these changes. Gale Lim Construction, L.L.C. requests that MSHA extend the comment period for 180 days.

The company would also like to comment on the following: Exemption for small jobs.

Gale Lim Construction, L.L.C. has different pieces of equipment that are used in different configurations depending on the product that is required by the client. The company crushes rock for different companies including city, state, and federal agencies. Some of these crushing jobs

only last 2-3 weeks. Sampling these jobs wouldn't produce useful data because by the time the samples came back, the company would have removed its equipment and may not be back for years to crush again if ever.

Gale Lim Construction asks there to be an exemption from testing when in portable mode. Many of the rock crushing jobs are small in nature. We are not asking for exemptions to any pit we return to regularly or those locations we control. The data we collect in those locations would be acted upon if the numbers exceeded the action level.

Initial Regulatory Flexibility Analysis

8. As summarized in Section X. Initial Regulatory Flexibility Analysis of this preamble, MSHA examined the impact of the proposed rule on small mines in accordance with the Regulatory Flexibility Act. MSHA estimated that small-entity controllers would be expected to incur, on average, additional regulatory costs equaling approximately 0.122 percent of their revenues (or \$1,220 for every \$1 million in revenues). MSHA is interested in how the proposed rule would affect small mines, including their ability to comply with the proposed requirements. Please provide information and data that supports your response. If you operate a small mine, please provide any projected impacts of the proposal on your mine, including the specific rationale supporting your projections.

It's been estimated that the cost of IH sampling (SEG Development, IH Plan) will cost \$7500.00.

Lab fees to run the Initial samples will be \$650.00 and \$1950.00 per year after that.

It costs \$1000.00 for one truck of water. Costs will increase significantly because the action level for silica is dropping dramatically which will require 4 times the water use today to stay below the .25 ug/m³ where at current levels one load may be sufficient. **UNKNOWN COST**

The pits owned and/or operated by Gale Lim Construction cost to mag chloride the pit areas. This is \$.95 a gallon and it takes ½ gallon per square yard.

Southfork Pit 8,052 square yards = \$3,824.70 each time.

Jerome is 7,580 Square yards = \$3,600.50 each time.

Declo is 7,830 Square yards = \$3719.25 each time.

Moreland Pit is 13,395 Square yards = \$ 6,362.62 each time.

Goodwin is 6,077 Square yards = \$2,886.57

Grand Total \$20,393.65 with anticipation rate of two times a year because of the 25 micrograms per cubic meter action level. The cost of this alone is well above MSHA anticipated \$1220.00 per million dollars made in a year.

Cost per person for medical surveillance

We were unable to find someone close to our company to do the test. We found one group that said they would get back to us after September 12th, the doctor told me he felt the cost would be over \$375.00 per person if their group decided to include Gale Lim for medical surveillance.

With 20 people x \$375.00 per person would cost the company over \$7500.00 and the closest cities if this group chooses not to do the surveillance, the nearest location to do so would be Salt Lake City over 4 hours one way, or Boise, ID almost five hours away. This would cost the wages of the 20 miners times 16 hours, and lodging.

Cabin Air filters Cost \$25.00 to \$71.00 dollars apiece depending on the machine. The manufacturer requires these filters to be checked every 50 hours of service and must be replaced accordingly. What used to be acceptable will change with the lowered action level requiring a much higher changeout frequency. The lower standards would require every 200 hours we would change the filters. The company has 19 machines with cabin air filters. The itemized cost with a 25% discount will be \$668.41 initially and will have to change them 10 times a year = \$6684.10. We anticipate the cost will rise when supply and demand drive the cost up when every company must comply with this standard that will protect 2 people a year nationwide from getting silicosis with no symptoms in the Metal/Non-Metal Mines.

Respirators will cost from \$37.00 to \$48.00 x 20 = +/- \$800.00 with tax with a possible replacement every year - two years.

North Full-Face and Half-Mask Respirator Cartridges

\$39.30 - \$55.00 USD / PKG OF 2 X 20 = \$600.00 REPLACED EVERY 6 MONTHS

The cost will be \$1920.00 +/-

Air conditioning in machinery, which is usually considered more of a luxury, will be required to keep the cabs positive pressure.

Because the action level has been lowered by 75 micrograms per cubic meter, our company will undoubtedly start to receive more citations we have never been exposed to.

Our costs for drilling will go up because the drilling companies will have to meet new criteria which will cost them more money.

Very conservative estimated cost for first year is **\$67,397.75**, is a far cry from MSHA's estimated 1220.00 Per Million earned. This company doesn't make 104 million dollars a year. There are costs we probably haven't thought of as we have been given very little time to figure out all the way our company will be impacted. There is no evidence that this change in the standards will change anything in mining other than coal. We don't know anybody in our industry that has silicosis, or anything associated with it. The cost that our company will incur to prevent nothing is beyond ridiculous. We already take many steps to keep dust levels down to protect our miners and the environment.

We appreciate your thoughtful consideration of these comments.

Sincerely,

Gale Lim

President