From:	Spittler, Melissa
To:	zzMSHA-Standards - Comments to Fed Reg Group
Cc:	Spittler, Melissa; Slensky, Brett E.
Subject:	Public Comment Submission: Docket No. MSHA 2023-0001, RIN 1219-AB36
Date:	Monday, September 11, 2023 3:49:14 PM
Attachments:	MSHA Public Comment Submission Final Formatted CT LLC.pdf
Sensitivity:	Private

Good afternoon:

Attached please find comments submitted on behalf of CertainTeed, LLC, regarding the above-referenced matter.

Thank you for the opportunity to submit these comments.

Melissa Spittler (Schaefer)
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"Build a culture where health & safety is a core value and where empowered employees know the safe decision is always the right decision"

September 11, 2023
VIA EMAIL: *zzMSHA-comments@dol.gov*.

S. Aromie Noe, Director
Mine Safety and Health Administration
Office of Standards, Regulations, and Variances
201 12th Street South Suite 4E401
Arlington, Virginia 22202-5452

RE: Lowering Miners' Exposure to Respirable Crystalline Silica
Docket No. MSHA 2023-0001, RIN 1219-AB36

Dear Director Noe:

On July 13, 2023, the Mine Safety and Health Administration (MSHA) published a proposed rule, "Lowering Miners' Exposure to Respirable Crystalline Silica and Improving Respiratory Protection" (Silica Standard). The Silica Standard provides for a public comment period, which expires at midnight eastern time on Monday, September 11, 2023. CertainTeed, LLC appreciates the opportunity to provide comments regarding the above-referenced rule.

Question 33

MSHA requests comments addressing the question should MNM operators be required to use NIOSH-approved facilities for medical examinations?

According to the CDC's NIOSH-Approved Health Facility and Search Map tool, there are 166 NIOSH-approved facilities in the United States that offer x-rays or spirometry services. Of the 166 available services, only 10 are mobile sources. This limited number of facilities, compared to the physical locations where our mines are situated creates a travel burden for our employees. In all cases, employees would be required to travel between 87 and 210 miles ***one way*** to a physical facility. Instead, we respectfully request the allowance that medical examinations be performed by a p*hysician or other licensed health care professional [PLHCP],* whose legally permitted scope of practice (*i.e.*, license, registration, or certification) allows him or her to independently provide or be delegated the responsibility to provide some or all of the particular medical services as required by this rulemaking.

Question 43

MSHA is not proposing to adopt a similar approach as the OSHA Table 1 for the construction industry, where MSHA would prescribe specific exposure control methods for task-based work practices when working with materials containing respirable crystalline silica. See 29 CFR 1926.1153(c)(1). MSHA requests comments on specific tasks and exposure control methods appropriate for a Table 1-approach for the mining industry that also would adequately protect miners from risk of exposure to respirable crystalline silica. Please provide specific rationale and supporting information, including data on how such an approach would be implemented.

During the public hearings, numerous commenters requested consideration of a "Table 1" type document, currently found in OSHA's respirable crystalline silica standard for construction, which identifies common construction tasks known to generate high exposures to respirable crystalline silica and specifying appropriate and effective engineering controls, work practices, and respiratory protection for each identified task. Some entries contain multiple engineering controls and work practices. In those instances, OSHA has determined that the specified combination of engineering controls and work practices is necessary for reducing exposures and requires employers to implement all the listed engineering controls and work practices in order to be in compliance[1.] OSHA developed Table 1's list of controls using data from sources including National Institute for Occupational Safety and Health reports, OSHA compliance case files, published literature, and unpublished information submitted to the rulemaking docket. These data sources encompassed several types of studies assessing the effectiveness of control methods, including air-sampling studies performed during normal work activities and experimental studies performed in controlled environments. OSHA concluded that Table 1 was the best approach for protecting employees exposed to respirable crystalline silica and also simplified compliance and reduced burdens on employers in the construction industry. OSHA also concluded that Table 1's approach further recognizes and avoids the challenges of accurately assessing employee exposures to respirable crystalline silica in construction work due to frequent changes in workplace conditions, such as environment and location.[2]

[1] https://www.osha.gov/laws-regs/federalregister/2016-03-25-1
[2] https://www.federalregister.gov/documents/2019/08/15/2019-17450/occupational-exposure-to-respirable-crystalline-silica-specified-exposure-control-methods

CertainTeed, LLC respectfully requests that MSHA adopt a similar approach (i.e., a Table 1 type approach), particularly for metal/nonmetal (MNM) operations and submits the following table for consideration:

Proposed Specified Exposure Controls Methods When Working with Materials Containing Crystalline Silica		
Equipment/Task	**Engineering and work practice control methods**	**Required respiratory protection and minimum APF 8 hour**
Maintenance	Use tools with dust collection system when applicable Use water to minimize dust when applicable Operate and maintain machine in accordance with manufacturer's instructions to minimize dust emissions	None
Loading/Unloading Operations	Use equipment with built in ventilation systems When employees outside of the cab are engaged in the task, apply water to minimize dust emissions Operate and maintain machine in accordance with manufacturer's instructions to minimize dust emissions	None
Heavy Equipment Operator with Enclosed Cabin	Operate from within closed cabin.	None required when inside cab
Operator in enclosed booth	Operate from within closed booth Cabin filtration system	None required when inside booth
Open Cab equipment; i.e. skid steer	Wet cleaning methods to clear dusty materials	None
Vehicle-mounted drilling rigs for rock and concrete	Use dust collection system with close capture hood or shroud around drill bit with a low-flow water spray to wet the dust at the discharge point from the dust collection. Operate from within an enclosed cab and use water for dust suppression on drill bit	None

Thank you for your consideration of these comments.

Melissa Spittler

Melissa Spittler
Senior Director, Environmental, Health and Safety
Saint-Gobain North America

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