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**Kevin Dempsey**  
President and Chief Executive Officer

**SUBMITTED VIA REGULATIONS.GOV**

September 11, 2023

Mr. Christopher J. Williamson  
Assistant Secretary of Labor  
Mine Safety and Health Administration  
201 12th St. S., Suite 401  
Arlington, VA 22202-5450

**Re: Comments on “Lowering Miners' Exposure to Respirable Crystalline Silica and Improving Respiratory Protection,” [Docket No. MSHA-2023-0001, RIN 1219-AB36]**

Dear Assistant Secretary Williamson:

The American Iron and Steel Institute (AISI) submits the following comments in response to the Mine Safety and Health Administration (MSHA) proposal entitled “Lowering Miners' Exposure to Respirable Crystalline Silica and Improving Respiratory Protection” [Docket No. MSHA-2023-0001, RIN 1219-AB36].<sup>1</sup>

AISI serves as the voice of the American steel industry in the public policy arena and advances the case for steel in the marketplace as the preferred material of choice. AISI's membership is comprised of iron ore mining and processing operators, integrated and electric arc furnace steelmakers, and associate members who are suppliers to or customers of the steel industry. The American steel industry supports nearly two million jobs and contributes \$520 billion to the economy.

*Domestic Steel Industry Commitment to Workplace Health and Safety*

AISI member companies are committed to continuous improvement in safety and health and to achieving an injury-free workplace. The industry's achievements in improving the safety and health of the employees at our operations are only possible through maintenance of a healthy and highly skilled workforce.

AISI member companies have made substantial efforts to decrease the number and frequency of workplace incidents and continue to work through AISI to share information and best practices to meet their shared goal of improving occupational safety and health. AISI members recognize that it is a policy priority of the federal

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<sup>1</sup> Mine Safety and Health Administration, “Lowering Miners' Exposure to Respirable Crystalline Silica and Improving Respiratory Protection,” 88 Federal Register No. 113 44852-45019 (Jul. 13, 2023).

government to ensure safety and health at industrial workplaces. The steel industry shares this critical goal.

The experiences of AISI member companies in this critical field have demonstrated that cooperative efforts among company management, employees, and government are the best manner by which to maximize workplace safety and health. Regulations that are not based on thorough cost analysis may misdirect priorities and create unnecessary costs for employers that prevent optimum workplace safety and health benefits from being realized.

*AISI Comments on MSHA Crystalline Silica Proposal*

- § 60.2 Definitions: In the proposal, MSHA would reduce the permissible exposure limit (PEL) for airborne concentration of respirable crystalline silica from 100 micrograms per cubic meter of air ( $\mu\text{g}/\text{m}^3$ ) for a full-shift exposure, calculated as an 8-hour time weighted average (TWA), to 50. It would also institute an action level (AL) of 25  $\mu\text{g}/\text{m}^3$ . AISI notes the challenges of consistently achieving the AL standard at industry metal/nonmetal (MNM) operations, especially as the proposed compliance target is on the limit of accurate detection at industry facilities. MSHA should alternatively consider setting a new PEL, but not instituting the reduced AL.
- § 60.11 Methods of compliance: The MSHA proposal would prohibit the use of administrative controls for compliance with the reduced PEL for crystalline silica. AISI is concerned that in situations in which engineering controls for exposure are not feasible, administrative controls (such as the rotation of miners) may be necessary. MSHA should revise the acceptable methods of compliance and permit the use of adequate administrative controls when engineering controls are not feasible.
- § 60.12 Exposure monitoring: The MSHA proposal mandates that mine operators perform baseline sampling of each miner with potential exposure to respirable crystalline silica within 120 days of the rule taking effect. At the taconite mining and processing facilities within the iron and steel industry, the mandated baseline sampling is estimated to take hundreds of days and approximately \$300,000 in lab analysis costs. Instead of the testing regime under this proposal, MSHA should instead use Similar Exposure Groups (SEGs) for its analysis of each mine. Baseline sampling should only be necessary for miners with a reasonable likelihood of exposure to respirable crystalline silica in excess of the PEL as assessed qualitatively.

Additionally, the rule would require repeated testing in some cases for mines with consistent exposure levels higher than the action level, but below the updated PEL. AISI notes that many miners will never be consistently below the AL, regardless of engineering controls, because their task-specific exposures are limited. For example,

those in housekeeping tasks, working on dust collectors, belts, wipers, chutes should not be sampled as frequently as other employees at mine operations.

- § 60.14 Respiratory protection: The proposal would update the standard for the use of respiratory protection by mine operators. It is critical to recognize that the creation of dust is inevitable when over millions of tons of iron ore is processed and transferred on belts. The most effective way to protect miners' health is to utilize respirators when engineering controls are not feasible because of task specific exposures – housekeeping, working on dust collectors, chutes, belts, wipers, skirting, and other controls. Respirators should be considered as an adequate administrative control, similar to the approach used by OSHA.

As stated above, the domestic iron and steel industry supports cooperation between all stakeholders to maximize workplace safety and health. We are concerned, however, that some aspects of the MSHA crystalline silica proposal are not best tailored to maximize safety and health and industry workplaces. MSHA should ensure that the comments raised above are reflected in the final version of the rule. Doing so will avoid placing unnecessary burdens on mine operators that do not ultimately improve the health and safety of employees.

Sincerely,

A handwritten signature in black ink, reading "Kevin M. Dempsey". The signature is written in a cursive, flowing style.

Kevin M. Dempsey  
President and Chief Executive Officer