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To: [zzMSHA-Standards - Comments to Fed Reg Group](#)
Subject: MSHA Silica Extension Request: RIN 1219-AB36
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MSHA Silica Extension Request: RIN 1219-AB36

Dear Ms. Noe:

On July 13, 2023, The Mine Safety 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 of 45-days, which expires at midnight eastern time on August 28, 2023. We respectfully request an extension of the public comment period for an additional 60-days and propose that the public comment period be extended until midnight eastern time on October 27, 2023. The reasons for the request are set forth below.

Miles Sand and Gravel Company is a surface mining company located in Washington state with over 20 active mine sites. This would no doubt have significant impact on this mine operator and 45 days is not near enough time to digest the proposed changes.

1. Due to the complexity of the rule, quantity of technical supporting material (almost 500 pages plus standards incorporated by reference) and the timing of rule's release in mid-summer, we believe that 45 days is insufficient to provide meaningful comments to MSHA. The highly prescriptive nature of the rule (as opposed to it being in the form of a performance standard like Part 62) makes preparing comments more

complicated and time consuming. Furthermore, the rule's release on July 13 coincides with a time when it is difficult to assemble the myriad of people who need to review and assess the Silica Standard to provide input on the very wide range of issues presented by the materials MSHA has released. Summer is also the busy season for operators when construction is at its peak due to weather, making it even more difficult for the regulated community to dedicate time away from their jobs to understand and comment on the proposed silica rule. 2. MSHA outlined 43 technical questions for which it wants additional information. We cannot adequately submit comments in response to the questions in a 45-day public comment period expiring August 28. Additionally, there will be more questions raised by the stakeholder community on, for example, technical feasibility and availability of sampling equipment, for which the MSHA request does not account. A 60-day extension will allow stakeholders to respond to the questions posed by MSHA plus additional questions raised while considering the proposal. 3. This rule will affect the entire mining community, including thousands of small operators who may not have industrial hygienists or other health and safety professionals on staff, and many do not have medical surveillance programs or conduct sampling for silica. These small operators will require additional time to understand the proposed rule, understand the effects it will have on their operations, and provide meaningful comments. Furthermore, these small operators need more time to weigh in on the proposed silica rule as it will significantly affect their operations, but they will not be able to adequately do so with only 45 days, during their busiest time of the year. 4. Finally, we do not believe that the request for an additional 60 days to submit comments will result in increased health risks to miners. As MSHA itself stated in the preamble to the proposed rule, about 6% of MNM silica samples between 2005-2019 were above the existing PEL of 100 µg/m³, and importantly, "Compared with the rates in 2005-2008, overexposure rates were substantially lower in 2009-2017, with a further drop in 2018-19." These findings show that over-exposures are rare and also continually declining, meaning an additional 60 days will not put miners at risk. In conclusion, the current 45-day public comment period is insufficient for stakeholders to provide sufficient and meaningful comments due to the time of year it was released, the quantity and complexity of the supporting materials cited by MSHA, the number of technical questions (43) posed by MSHA in the proposed rule, and the sheer magnitude of the rule. Additionally, we submit that the requested extension will not result in additional health risks to miners. For the reasons outlined in this letter, we request that MSHA extend the public comment period for the proposed Silica Standard by 60-days, to midnight October 27, 2023. We thank you in advance for your consideration of this request and are available to discuss this with MSHA if needed.

Sincerely,
Lorri Soule
Safety Director Miles Sand and Gravel