

From: [Matt Bierer](#)
To: [zzMSHA-Standards - Comments to Fed Reg Group](#)
Cc: [Matt Lengerich](#); [Jennifer Hinton](#)
Subject: RIN 1219-AB36
Date: Monday, September 11, 2023 6:31:09 PM
Attachments: [Jervois ICO-MSHA proposed silica rule comments.pdf](#)

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Please see attached comments from Jervois Idaho Cobalt Operations on the proposed silica rule RIN 1219-AB36, Docket No. MSHA-2023-0001.

Thank you,

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AB36-Comm-151



September 11th, 2023

Ms. Aromie Noe
Director, Office of Standards, Regulations and Variances
Mine Safety and Health Administration
201 12th Street South
Suite 4E401
Arlington, VA 22202-5450

Submitted electronically via Regulations.Gov website

Re: Lowering Miners' Exposure to Respirable Crystalline Silica and Improving Respiratory Protection, RIN 1219-AB36, MSHA-2023-0001

Dear Ms. Noe,

Jervois' Idaho Cobalt Operations ("Jervois" or "ICO") has an expressed interest in the Mine Safety and Health Administration's ("MSHA") proposal to amend its existing standards ("**proposed rule**") to better protect miners against occupational exposure to respirable crystalline silica and to improve respiratory protection for all hazards (88 Fed. Reg. 44852 July 13th, 2023). Jervois has no doubt that silicosis and exposure to silica is of concern and protection of our miners is our first and most important responsibility. It is important to note, that the risk profile in metal/nonmetal mining is substantially different than in coal mining, with 20 reportable silica cases over the last 10 years in metal/non-metal mining, and 1,160 in coal mining¹. This letter is provided in response to MSHA's request for comment, and Jervois notes that the proposed ruling as written poses significant concerns to us as an operator providing critical minerals for the United States.

Jervois' concerns with the proposed rule are multiple, and in aggregate represent a significant economic burden to the operation without commensurate health benefits. In some cases, the remote location of our site may make compliance not only overly burdensome, but impossible.

Jervois has provided its support to the National Mining Associate ("**NMA**") and supports its comprehensive comments on the proposed rule. In addition, Jervois provides the following observations:

- MSHA should lower the permissible exposure limit ("**PEL**") to align with the OSHA standard, but must also use the OSHA approach to time-weight averaging the exposure. At Jervois, a standard

¹ <https://www.msha.gov/data-and-reports/mine-data-retrieval-system>

work shift is typically 11 to 12 hours and the proposed rule as written effectively lowers the PEL to well below the proposed 50µg/m³.

- The sampling requirements in the proposed rule create an undue burden on small remote operators, without commensurate health benefits. Jervois supports the NMA recommendation that the MSHA rule follow the current OSHA guidelines for sampling.
- The proposed rule requires medical surveillance that is simply unavailable in small remote mining communities. Jervois supports the NMA proposal that the current use of contracted physicians or other licensed health care professionals (PLHCP's) be maintained.
- The inability to utilize respirator protection or rotation of miners will create excessive costs and hinder the ability to operate within the mining industry. Explicitly/exclusively using engineering controls ignores the hierarchy of controls when experiencing sampling above the proposed action level ("AL") or PEL. Jervois supports the NMA recommendation for adjusting the proposed rule to allow for the use of personal protective equipment and work rotation as part of the hierarchy of controls.
- The implementation time of 180 days should be extended to a minimum of two years. This timeframe will allow the health care industry, local providers and technology to meet the requirements of the mining industry, focus mine operations leadership on the protection of miners and sustain the production of materials critical to the United States.

Jervois is proud to be the United States primary, domestic cobalt mine and takes seriously its responsibility to provide an incident free workplace. Jervois supports MSHA intent to protect miners from long term health impacts and is confident with the changes to the proposed rule as detailed by the NMA, industry can work effectively to manage the most severe impacts of worker silica exposure.

Regards,



Matthew Lengerich
General Manager Idaho Cobalt Operations

C: Jennifer Hinton (Group Manager – ESG, Jervois Global)

C: Michael Rodriguez (Group Manager – Technical Services, Jervois Global)