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July 31, 2023

The Honorable Julie A. Su
Acting Secretary
Department of Labor
200 Constitution Ave., NW
Washington, DC 20210

Dear Acting Secretary Su:

On July 13, the Department of Labor's (DOL) Mine Safety and Health Administration (MSHA) published a Notice of Proposed Rulemaking (NPRM) to update existing standards limiting miners' exposure to respirable crystalline silica.¹ I write to request a 60-day extension to the comment period because of the proposed rule's complexity, the need to allow the regulated community sufficient time to provide robust comments to MSHA that may be highly technical, and past agency precedent.

The current 45-day comment period to respond to the MSHA silica proposed rule is woefully inadequate to allow for meaningful feedback from the regulated community. MSHA's health standards to protect miners from excessive exposure to respirable crystalline silica have been in place for more than 50 years.² The proposed rule, which will impact every mine in America and impose substantial new requirements on mine operators, would represent a significant policy change and therefore deserves an appropriately substantial length of time for due consideration.

Additionally, the NPRM also demands highly technical answers and extensive sampling dating in order to answer more than four dozen detailed questions.³ It is unreasonable to expect the regulated community to provide the agency with relevant data and a thorough analysis of how this proposal will impact miners' health in this short period of time. Without this important feedback, MSHA will not be able to ensure that the policy is workable and technologically feasible.

¹ Lowering Miners' Exposure to Respirable Crystalline Silica and Improving Respiratory Protection, 88 Fed. Reg. 44,852 (proposed July 13, 2023).

² *Id.* at 44,860.

³ *Id.* at 44,854-44,858.

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Furthermore, the 45-day comment period is out of line with past DOL precedent for safety and health regulations. For instance, MSHA models its silica proposed rule on the Occupational Safety and Health Administration's (OSHA) 2016 rule on occupational exposure to respirable crystalline silica covering general industry, construction, and the maritime industry.⁴ For that OSHA rule, DOL provided an initial 90-day comment period, which was later extended to 150 days, or five months.⁵ Since MSHA's proposed silica rule represents the most significant mine safety and health rule proposed in the past decade, the mining community deserves the same opportunity to weigh in through public comment as those in other industries have received in the past.

Therefore, I request a 60-day extension of the public comment period, which is appropriate and reasonable because of the complexity of MSHA's regulatory proposal and past agency precedent. Please respond to this letter by no later than August 7 outlining your plans for extending the public comment period.

Thank you for your prompt attention to this matter.

Sincerely,



Virginia Foxx
Chairwoman

⁴ Occupational Exposure to Respirable Crystalline Silica, 81 Fed. Reg. 16,285 (Mar. 25, 2016).

⁵ Occupational Exposure to Crystalline Silica; Extension of Comment Period, 79 Fed. Reg. 4,641 (Jan. 29, 2014).