

## Wyoming County Black Lung Association comment for 2023 MSHA silica rule-making

This comment is submitted to MSHA on behalf of the Wyoming County WV chapter of the Black Lung Association. Our chapter meets every month in Mullens, WV. Our membership includes miners and their family members. Some of our miners have their black lung benefits, and some don't yet. We try to help miners understand their rights and access resources and experts they need to file for black lung benefits. Our monthly meetings are also an opportunity for fellowship among people who understand what it means to be a coal miner and to have black lung. Several of our members were in attendance at the hearing at the Mine Academy in Beckley, but none of us spoke there.

When our members were working in the mines, the dust would often be so thick that you couldn't see your hand in front of your own face. One member recalls times when workers in a given section could shine their lights straight at one another, and all you could see was the other one's light. You couldn't even make out that there was a figure there.

We understand that our members and other miners are suffering some of the worst forms of black lung today because of the increase in silica exposure over the past couple of decades. Some of us still have children and other relatives, neighbors and friends working in the mines. We are especially concerned for them. We want to advocate on their behalf because we're already disabled or retired, and we know that if they advocate publicly for themselves, they could get fired.

MSHA must do more to force coal companies to reduce silica dust exposure in the mines. The proposal to set the Permissible Exposure Limit at 50 mcg/ m<sup>3</sup> with an action level of 25 mcg/ m<sup>3</sup> is a good step. We support this move.

But the proposed rule would also let coal companies "temporarily" force miners to wear respirators and stay in extremely high silica environments while the company supposedly figures out how to bring the silica down. This is an awful idea. For one, the proposal doesn't say just how long "temporary" is supposed to be. Coal companies will try to evade rules any way they can. If MSHA says they can force workers to stay in unsafe dust levels "temporarily," but doesn't say what "temporary" is, then coal companies will force workers to stay in those conditions indefinitely. But even if "temporary" were defined, this whole part of the rule should be thrown out because respirators just don't work. They don't fit right. They're uncomfortable. You can't hardly wear them and breathe through them when your hunched over in a damp hot mine operating machinery. That's hard work and sometimes the respirators make it so you can't see or breathe doing that work. They fog up your safety goggles to where you

can't see the other workers you need to be able to communicate with. At the end of the day, miners just won't wear them. This part of the proposed rule would basically just allow the operators to force miners to breathe in silica concentrations higher than 50 mcg/ m<sup>3</sup>.

Instead, MSHA should require that whenever a mine has respirable silica dust above the action level of 25 mcg/m<sup>3</sup> to pull the miners out, review the ventilation plan and have a crew go in and make sure all the fans and curtains and everything are where they're supposed to be, and are operating right before commencing to mine coal. Then if the silica is still too high, the workers need to be pulled out again until the ventilation plan and other dust control measures can be revised and put in place. Under no circumstances should miners be told they have to work in this deadly toxic silica dust. The respirators won't protect them, because they won't use them. Especially in non-union mines, the miners will just do exactly what they're told, or else they know they'll be fired or see their hours cut or be otherwise punished by the company for having spoken up or done anything that slows down the running of coal.

On a similar note, the proposal relies too much on the companies to monitor silica themselves. When our members were in the mines, we all either saw or directly participated in dust samples being manipulated. We would do things we know we shouldn't do, because if we didn't, we might lose our jobs and not be able to get a job in another mine. Miners are told to put the sampling devices under a bucket or under a towel, or the companies will report a sample as having been collected in one part of the mine when it was actually collected somewhere else with a lot less dust and a lot more fresh air intake. MSHA can't trust the companies to police themselves on this. MSHA needs to collect silica samples itself, and it needs to do it frequently. MSHA inspectors need to show up, unannounced and stick around for several shifts. Any company submitted data should be collected by a continuous monitoring device that constantly tracks its own gps coordinates and has tamper-proofing qualities.

MSHA also needs to be diligently reviewing the ventilation plans of these mines and comparing those against daily run of mine production numbers and any other available information to see if the ventilation plans are actually being followed. A lot of the time, they are not and if MSHA would take a closer look at things, and then issue violations when companies do not follow their ventilation plans, that would help start to get miners out of the dust a little bit. And if companies need to revise their ventilation plans, MSHA needs to take an active role in not only forcing them to do this, but actually helping them do it.

One other problem we have the proposed rule is that it doesn't impose any fines on mines with high silica. If there's no consequence for breaking the rule, then what good is the rule? MSHA needs to fix this by imposing fines on any mine that exceeds the silica limit of 50 mcg/ m<sup>3</sup> that are strict enough to have some teeth.

Based on our experience working in the mines for various companies, it is the general belief of this chapter that all the industry really cares about is how much coal you can mine. It is up to miners and our communities to care about one another and advocate for ourselves, because the coal companies aren't going to. MSHA is the agency that is in a position to change things, so we are looking to you to do the right thing. Thank you for your efforts to lower silica in the mines, but if you don't fix the problems in your proposal that we've identified here, it won't work. We look forward to seeing a strong silica rule to protect today's coal miners.