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Lowering Miners' Exposure to Respirable Crystalline Silica and Improving Respiratory Protection

Comment On: MSHA-2023-0001-0002

Lowering Miners' Exposure: Respirable Crystalline Silica and Improving Respiratory Protection

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Comment from Tate, Marcy

Submitter Information

Name: Marcy Tate

Address:

Wise, VA, 24293

Email: tatema7@gmail.com

Phone: 276-275-3038

General Comment

My name is Marcy Tate. I'm the director of the New Beginnings Pulmonary Rehab Center in Norton, Virginia, the President of Southwest Virginia Black Lung Association Chapter II, and the daughter of a coal-miner.

At New Beginnings, we support miners with black lung disease in developing and following through on strategies to maintain the level of pulmonary and respiratory health that they still have, despite the ravages of black lung disease. These miners, and my own father, have told me all about the dust conditions in the mines. "You couldn't see your hand in front of your face," is a common refrain. One patient of New Beginnings, just before he died, reported that his wife would pack him a sandwich each morning, and he'd eat it underground. Before he was done eating the sandwich, the white bread would be black.

About 7 years ago, we started seeing much younger, much sicker patients. We started getting 40 year olds, and they were coming in with the worst cases of progressive massive fibrosis I've ever seen. The only difference between their working conditions and the conditions of the guys who ended their mining careers earlier on was the silica. The huge coal seams are gone. The coal that's left is behind and under so much rock. So the miners keep cutting, and they breathe in huge amounts of rock dust. To inhale microscopic particles of silica dust day in and day out, it's like breathing glass. These men are very sick.

I've read studies and news reports that say we should expect upwards of 7,000 new cases of PMF over the next ten years. Something has to be done to address this epidemic.

I support MSHA's proposal to lower the Permissible Exposure Limit for respirable silica to 50 mcg/ cubic meter, with an action level of 25 mcg/ cubic meter. I appreciate the agency's work on this issue. But there are problems with the proposed rule that need to be addressed before the final rule is published.

I find it hard with my medical experience to think there's a respirator out there that can filter 0.5 micron particles out of the air these guys are breathing. Also, many of my patients at New Beginnings, and my members in the Black Lung Association tell me that even wearing respirators is not practical in most types of mining work. This idea that miners will wear respirators and be able to safely keep working in high silica environments is just wrong. In the final rule, I want MSHA to require that workers are withdrawn from any area found to have silica concentrations above the action level, until those concentrations can be brought into compliance. Requiring miners to keep working in these areas with a mandate to wear respirators that will not be effective for a number of reasons, is basically just forcing miners to keep breathing in glass.

I'm also concerned that the proposed rule relies too much on silica sampling conducted by the companies. Again, the miners in my life report how commonplace it is for miners, at the behest of their employers, to manipulate dust samples. MSHA or a third party needs to be doing the sampling. It definitely needs to be someone outside of the industry. This is the only way we'll be able to have any faith in the data that enforcement will be based on. It is also important that these MSHA or third party inspectors conduct inspections that last multiple days and occur without any advance warning to the companies. I know the companies aren't supposed to get advance warning already, but it happens, and this needs to change.

Lastly, the proposed rule doesn't seem to have any clarity as to when fines will be issued for violating the silica limit, and how those fines would be calculated. Without clarity on this, the companies will wiggle and dodge any sort of accountability. The final rule needs to clearly state that fines will be assessed for violations, and it needs to outline specific amounts (tied to inflation) that these fines will be, that are high enough to make these companies want to obey the silica rule.

The miners are these companies' greatest asset, but they're so often treated like they don't really matter. Coal companies are required to do reclamation of land. They're required to put things back to some degree in the way that they found it. But they're missing the step of trying to let these men put themselves back together. Black lung is irreversible. The industry needs to take responsibility for their greatest asset, and MSHA needs to step up and hold the industry's feet to the fire on this.

Thank you again for receiving these comments and for working on this important issue.