

Kanawha County silica comment August 2023

The Kanawha County Black Lung Association meets every month in the community of Dawes, WV. Regular meetings usually draw between 25 and 30 individuals. Our members are mostly miners from Kanawha County, but we also have some miners' wives and family members who are very active, as well as miners from neighboring counties. Most of our miners have black lung disease, with many having quite severe complicated black lung. A few worked primarily in trucking or other positions where they didn't have as much exposure to the dust, but even those men generally have some degree of impaired breathing. Not all of our members who have been told by doctors that they have black lung have been able to prove they have total disability, so they don't have black lung benefits.

Many of our members have sons and other loved ones working in the mines. We submit these comments today out of our love and concern for them. It's too late for those of us who are already disabled, but we can tell our stories so that what happened to us doesn't have to happen to anybody else.

We all know that black lung, and complicated black lung, has gotten so bad because of how much more silica mine workers are exposed to nowadays as opposed to in the past. We thank MSHA for studying this and working on a rule intended to better control silica dust. We support the proposed rule in that it would lower the legal limit of silica exposure from 100 to 50 micrograms per cubic meter. We can't understand why miners have been allowed to be forced to breathe so much more silica than workers in construction or other industries for so long. It's not fair and we thank you all for taking this step to address that.

We oppose the provision of the proposed rule that would require miners to wear respirators and keep working in mines that have excessive silica. We've worked in the mines. We know that those respirators don't work. You can't wear them all the time like you're supposed to and still get your work done. You can't breathe with them on. You can't see when they fog up your goggles. They just don't work. To pretend miners will wear them would be to put your head in the sand. If this provision remains in the final rule, it's just as good as forcing miners to work in dangerous silica without a respirator, because that's exactly what will happen. In the experience of our members, in a lot of mines, it's impossible to perform your duties as a miner with these respirators on. You'll either have to choose to not perform your duties and lose your job as a result; or you'll choose to take the respirator off, do your job, and get black lung. In the final rule, please just require mines or mine sections to shut down when the dust is too high so workers

can be withdrawn, and the ventilation plans can be better implemented to bring the dust down in the whole mining environment.

We're also concerned that the proposed rule says miners can only be forced to keep working in dangerous dust on a "temporary" basis, but that "temporary" isn't defined. Some of these coal companies will just decide that "temporary" means forever. In the final rule, this shouldn't be an issue because miners should never be required to work in excessive silica, not even temporarily. We're not asking you to define temporary. We're asking you to require that workers are pulled out of excessive dust and not be put back in until it's safe to work.

A lot of miners with complicated black lung breathed in the most silica in the course of their career when they were cutting a slope or a shaft, jobs that don't produce any coal. The final silica rule should require that silica samples be taken during this part (and all parts) of building and operating a mine, and that the 50 microgram limit should be enforced at all stages.

We're also disappointed that the proposal allows coal companies to report their own silica data. We can't let the companies police themselves. It won't work. When our members were in the mines it was common for miners to manipulate dust samples at the direction of the company. We would be told by our bosses to cover up sampling devices with a rag, or put them on a man in the out-by air but say it's on a man working at the face, or just set it down somewhere with fresh air and leave it there. The company's own data can't be trusted and compliance with the new silica limit will be a joke if that's what we're basing it on. Just like with the respirators, it just won't work. If the final rule sets it up to where MSHA relies mostly on company samples, then we're going to have data about a lot of clean samples, but just as many cases of complicated black lung as we do right now because that data won't reflect actual dust levels.

The final rule needs to make it so MSHA is taking the samples, taking them at least quarterly, and never giving any advance notice to the companies. When the members of our organization were working in the mines, we knew when the inspectors were coming. Our employer would let us know, and so we'd make sure to get the whole workplace looking like it's supposed to for while the inspector was there. It's already not allowed for MSHA inspectors to give a warning of when they're coming, but it sure happens, and it happens a lot. MSHA needs to get on top of this. If your inspectors are giving advance notice to operators, you need to discipline them. If the word is getting out some other way, you need to figure out why and fix it. MSHA inspectors ought to show up at a mine unannounced, and stay there for a week or longer in order to really see how that operation is being run. In the final silica rule, please make it so that compliance with the

silica limit is based on samples collected by MSHA, and please adjust your inspection schedule and methods so that companies can't just make it look ok for a shift, and then go back to working miners in very high dust.

We know MSHA needs more inspectors. The Black Lung Association (not just our chapter) and other groups that we work with will advocate for Congress to give MSHA the money it needs to do this right.

Thank you for receiving these comments and thank you for holding a hearing on this in Beckley.