Industrial Minerals Association — North America

February 9, 2014

OSHA Docket Office
Docket No. OSHA–2010–0034
U.S. Department of Labor
Room N–2625
200 Constitution Avenue NW
Washington, DC 20210

Re: Comments of the Industrial Minerals Association – North America on OSHA's Proposed Rule Regarding Occupational Exposure to Respirable Crystalline Silica -- Docket No. OSHA–2010–0034

Dear Sir or Madam:

The Industrial Minerals Association – North America (IMA-NA) presents these comments on OSHA's proposed rule regarding occupational exposure to crystalline silica. IMA-NA represents producers of industrial minerals in North America and associate members that support the industrial minerals industry.[1] The crystalline silica rulemaking is as significant as any initiative that OSHA has launched during this Administration, and IMA-NA is pleased to offer its comments on the subject.

IMA-NA is an umbrella organization and nested under that umbrella are producers of various industrial minerals, including industrial sand and diatomaceous earth. The National Industrial Sand Association (NISA) is the sole member of the industrial sand section of IMA-NA. The International Diatomite Producers Association (IDPA) is the sole member of the diatomite section of IMA-NA. Some IMA-NA producer member sections produce and/or process essentially pure crystalline silica, while for others crystalline silica is at most a trace contaminant. Regardless of their individual circumstances, where the potential for worker overexposure to crystalline silica exists, IMA-NA member companies take seriously their obligation to provide their employees a safe and healthful workplace.

NISA has filed comments separately in this docket that focus primarily on OSHA's proposed action level and ancillary provisions and their integration with the permissible exposure limit (PEL). In sum, NISA advances the "NISA Solution": a comprehensive standard, in the form of a variant of OSHA's Alternative #1: the current PEL of 100 $\mu g/m^3$ and action level of 50 $\mu g/m^3$, with both

[1] The list of IMA-NA's member companies can be found at http://www.ima-na.org/?page=producer_members and http://www.ima-na.org/?page=associate_members.

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exposure monitoring and medical surveillance triggered by exposures *above the action level* (not the PEL). As NISA's comments demonstrate, this alternative substantially reduces any risks of material health impairment from workplace exposure to crystalline silica arising from the persistently high level of noncompliance with the current PEL, and is economically and technologically feasible. IMA-NA supports and hereby adopts those comments.

IDPA has also filed comments separately in this docket that focus primarily on the appropriate PEL and action level for cristobalite, the predominant polymorph of crystalline silica found in calcined (as opposed to natural) diatomaceous earth products. The comments commend OSHA for proposing to treat quartz and cristobalite alike for purposes of this rulemaking and, in particular, for setting the same PEL and action level for both quartz and cristobalite. As OSHA explains in the preamble to the proposal, and as further substantiated by the comments of IDPA and their consultant, Kenneth A. Mundt, PhD, there is no basis in experimental toxicology or epidemiology to believe that the two polymorphs pose materially different health risks in the workplace or warrant differential treatment. To the contrary, all available evidence militates in favor of treating them alike – as OSHA has correctly proposed to do. IMA-NA supports and hereby adopts those comments as well.

Both NISA and IDPA are founding members of the American Chemistry Council's Crystalline Silica Panel (the Panel).[2] The Panel also has filed comments separately in this docket that focus on the appropriateness of OSHA's proposed permissible exposure level (PEL). Those comments address issues of significant risk and issues of economic and technological feasibility (including feasibility of measurement). In brief, they show that OSHA has not established that a significant risk of material health impairment from crystalline silica exists at the current permissible exposure limit (PEL) of 100 $\mu g/m^3$, or that any such risk would be substantially reduced by a PEL of 50 $\mu g/m^3$. The Panel's comments also demonstrate that the proposed standard, with a PEL 50 $\mu g/m^3$, is not technologically or economically feasible. Both NISA and IDPA supported and adopted those comments in their individual comments and IMA-NA does likewise in these comments.

The following comments go beyond the scope of NISA's, IDPA's, and the Panel's comments to clearly state IMA-NA's position on the OSHA crystalline silica rulemaking:

IMA-NA supports an OSHA comprehensive crystalline silica standard that includes protective measures and does not lower the existing exposure limit for general industry. To this end, we endorse: (1) an OSHA Permissible Exposure Limit (PEL) of 100 $\mu g/m^3$ for all forms of crystalline silica (quartz, cristobalite, tridymite), and (2) establishing exposure assessment and medical surveillance for workplaces where crystalline silica exposures exceed an Action Level (AL) of 50 $\mu g/m^3$.

IMA-NA believes that an OSHA comprehensive silica standard should mandate that

[2] Information about the Panel is available at http://www.americanchemistry.com/ProductsTechnology/Crystalline-Silica.

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general industry employers whose workers are exposed to respirable crystalline silica above the AL of 50 μg/m^{3}must conduct dust monitoring of the air their workers breathe, and must retain records of that monitoring. In addition the new standard should require that when workers are exposed above the AL of 50 μg/m^3 employers must provide periodic medical surveillance that includes a chest X-ray, and must keep records of that surveillance.

IMA-NA also specifically wishes to draw OSHA's attention to two documents it places in the administrative record.

The first document, titled *A Practical Guide to an Occupational Health Program for Respirable Crystalline Silica*, Instruction Guide Series MSHA 3108 (IG 103) (2008), [3] is the result of a cooperative partnership between the IMA-NA and the Mine Safety and Health Administration (MSHA) under MSHA's Alliance Program. The document provides guidance in the development and maintenance of an occupational health program for exposure to respirable crystalline silica and was prepared to assist those potentially exposed to respirable crystalline silica in work environments. It begins with a review of the respiratory health effects of exposure to respirable crystalline silica, covers recommendations for the collection and analysis of air samples to evaluate exposures of workers to respirable crystalline silica, proceeds to identify commonly applied dust control techniques intended to minimize respirable crystalline silica exposures, and presents a recommended respiratory medical surveillance program that includes baseline and periodic respiratory review.

The second document, titled *Dust Control Handbook for Industrial Minerals Mining and Processing*, NIOSH Report of Investigations 9689 (RI 9689) (2012), [4] is the result of a collaborative partnership between IMA-NA and the National Institute for Occupational Safety and Health (NIOSH) to provide information on proven and effective control technologies that lower workers' exposures during all stages of minerals processing. The handbook describes both dust-generating processes and the control strategies necessary to enable mine operations (but also similar general industry operations) to reduce workers' dust exposure, including dust containing respirable crystalline silica. It begins with a review of the fundamentals of dust collection systems, and then covers wet spray systems, before examining a variety of dust sources and various applicable control mechanisms.

The two documents support the premise that silica-related disease occasioned by occupational exposure is preventable and that the comprehensive crystalline silica standard that IMA-NA recommends is pragmatic, worker protective, and cost effective.

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[3] IG 103 is available at http://www.msha.gov/alliances/formed/IG103.pdf. A pdf copy is attached as Appendix A.

[4] RI 9689 is available at http://www.cdc.gov/niosh/mining/works/coversheet1765.html. A pdf copy is attached as Appendix B.

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IMA-NA has filed a notice of intention to appear at the hearing in this rulemaking currently scheduled for March 18. Given the sheer size and complexity of the proposed rule and the record thus far in this rulemaking, and OSHA's refusal to grant a full 90-day extension of the original comment deadline as requested by IMA-NA and others, IMA-NA is compelled also to designate these comments as IMA-NA's testimony for the hearing. In the intervening days, IMA-NA expects to develop a more concise oral statement for the hearing, but it will be based upon these comments.

IMA-NA and its member companies stand ready to share the knowledge we have gained through many years of responsible work with crystalline silica to help craft a rule that will effectively protect American workers from silica-related disease.

IMA-NA appreciates the opportunity to put these comments before OSHA for consideration. If you have any questions about these comments, please contact me at markellis@ima-na.org or at (202) 457-0200 x 4.

Sincerely,

Mark G. Ellis
President

Attachments: 1. *A Practical Guide to an Occupational Health Program for Respirable Crystalline Silica*, Instruction Guide Series MSHA 3108 (IG 103) (2008)

2. *Dust Control Handbook for Industrial Minerals Mining and Processing*, NIOSH Report of Investigations 9689 (RI 9689) (2012)

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