

June 24, 2015

The Honorable Thad Cochran
Chairman
Committee on Appropriations
United States Senate
Washington, DC 20510

The Honorable Barbara Mikulski
Ranking Member
Committee on Appropriations
United States Senate
Washington, DC 20510

Dear Chairman Cochran and Ranking Member Mikulski:

As members of the Construction Industry Safety Coalition (CISC), we urge you to support the Sen. John Hoeven (R-N.D.) amendment to the FY 2016 Labor, HHS, Education Appropriations bill that addresses the proposed rulemaking to revise the standard on occupational exposure to respirable crystalline silica.

The CISC is comprised of 25 trade associations representing virtually every aspect of the construction industry. The CISC represents small, medium, and large contractors; general contractors; subcontractors; and union and non-union contractors. Virtually every construction trade, task, and activity is represented by the member associations of the CISC who take the health and safety of their employees very seriously.

CISC believes the Occupational Safety and Health Administration (OSHA) has not met its burden of demonstrating that the proposal is technologically and economically feasible. CISC further believes that OSHA has not taken the time to adequately answer numerous questions related to this proposed rule and its impact on the construction industry. OSHA's proposal prescribes control methods that contradict existing safety practices and will ultimately cost the construction industry nearly \$5 billion dollars annually. In its current form, this proposed rule will drastically impact small businesses throughout our country and their voices must be heard prior to finalizing a more comprehensive rule.

OSHA last convened a small business advocacy review (SBAR) panel under the Small Business Regulatory Enforcement Fairness Act (SBREFA) in 2003, over ten years before proposing this rule. Since that time, the economy and the construction industry has changed drastically and OSHA ignored the original 2003 report recommendations. The SBAR panel recommended that the agency carefully consider and solicit comment on the alternative of improved outreach and support for the existing standard; examine what has and has not been accomplished by existing outreach and enforcement efforts; and examine and fully discuss the need for a new standard.

CISC does not believe that OSHA has explained how a drastically lower PEL and action level will effectively reduce the number of silica-related illnesses and deaths with the agency itself admitting to a failure to properly enforce existing standards. Additionally, the Centers for Disease Control (CDC) has reported a 93 percent drop in silica-related deaths between 1968 and 2007. Further reductions through 2010 under the current regulation are expected.

CISC also remains concerned that laboratories do not have the ability to measure exposures accurately below the current OSHA exposure limits. Independent studies, and even OSHA's own testing, has shown that the laboratories that would be conducting the exposure testing are only able to determine within a margin of error of $\pm 50\%$ what level of silica is present in the samples at the significantly lower exposure levels. This means that employers will not be able to reliably determine whether they have met the requirements of the regulation.

This amendment would require a new SBREFA panel to consider the rule and require a study to be conducted by the National Academy of Sciences to answer several key issues that OSHA has not addressed. These questions are paramount in showing the technological feasibility, or lack thereof, of the current proposed rule. For these reasons, the CISC urges you to support the amendment when it comes before your Committee.

Sincerely,

American Road and Transportation Builders Association
American Society of Concrete Contractors
American Subcontractors Association
Associated Builders and Contractors
Associated General Contractors
Association of the Wall and Ceiling Industry
Building Stone Institute
Concrete Sawing & Drilling Association
Construction & Demolition Recycling Association
Distribution Contractors Association
Interlocking Concrete Pavement Institute
International Council of Employers of Bricklayers and Allied Craftworkers
Leading Builders of America
Marble Institute of America
Mason Contractors Association of America
Mechanical Contractors Association of America
National Association of Home Builders
National Association of the Remodeling Industry
National Demolition Association
National Electrical Contractors Association
National Roofing Contractors Association
National Utility Contractors Association
Natural Stone Council
The Association of Union Constructors
Tile Roofing Institute