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Dr. David Michaels, PhD, MPH
Assistant Secretary of Labor for Occupational Safety and Health
U.S. Department of Labor
200 Constitution Avenue NW
Washington, DC 20210

Submitted via: Regulations.gov

Subject: Occupational Safety and Health Administration (OSHA)
Docket #: OSHA-2010-0034
Proposed Rule on Occupational Exposure to Crystalline Silica

Dear Dr. Michaels:

The BlueGreen Alliance (BGA), a national coalition of labor unions and environmental organizations, offers our comments today to express our support for the long-overdue proposed standards of the Occupational Safety and Health Administration (OSHA) to safeguard general industry, maritime and construction workers who may be exposed to respirable crystalline silica. The estimated 2.2 million workers who are exposed to this carcinogen all deserve the protection these new standards will offer. The final rule should not exempt any industry in which workers are exposed to crystalline silica. BGA urges OSHA to complete this rulemaking quickly and to issue a strong final silica rule for general industry, maritime, and construction trades.

BGA thanks OSHA for its thorough and sound review and evaluation of the peer-reviewed literature on the health effects associated with exposure to respirable crystalline silica. We agree with the American Public Health Association (APHA) and others that OSHA used the best available evidence and acted appropriately in giving greater weight to those studies with the most robust designs and statistical analyses. The proposed rule also incorporates well-demonstrated methods of worker protection. We recognize that the new proposed standards represent significant progress over current limits. However, we believe that four aspects of the proposed standards should be strengthened in the final rule to further reduce the risk of death and disease. These include the proposed permissible exposure limit; the action level; medical surveillance; and hazard communication.

Lowering the proposed permissible exposure limit (PEL) to 50 µg/m^3

BGA supports OSHA's proposal to lower the permissible exposure limit (PEL), but is concerned that the proposed limit of 50 µg/m^3 will still not adequately protect workers. Though we recognize that this PEL will provide more protection than current limits, significant risk remains to workers even at this proposed new level. We believe a PEL based on a 1974 recommendation fails to integrate the decades of new science that demonstrate the harm of lower dose exposures, especially over time. Similarly, 40 years of technological advances have created the innovation base that would provide industry with the tools they need to improve upon even this new, lower PEL. It is feasible, using up to date sampling equipment, to measure respirable crystalline silica at levels below 50 µg/m^3, compelling OSHA to seek to reduce the risk of death and disease as much as possible.[i] BGA strongly supports a PEL of no higher than 25 µg/m^3 or lower where feasible.

Lowering the Action Level

As well as the proposed lower PEL, the BlueGreen Alliance also supports an even lower Action Level. The proposed action level, of 25 µg/m^3, half the PEL, is not protective enough, and not consistent with other OSHA health standards. From a health-based perspective, seeking to achieve exposure levels below 25 µg/m^3 should be OSHA's goal. BGA supports an action level of no higher than 25% of the PEL in order to provide reasonable likelihood that 95% of exposures are below the PEL.

Expanding Medical Surveillance

BGA believes that the action level should be the trigger for ongoing exposure monitoring and medical monitoring. It has been OSHA's past practice to trigger medical surveillance at the action level in other contexts, and this practice should continue in the context of crystalline silica exposure. BGA urges OSHA to include a provision that provides for medical examinations in response to employee reports of signs or symptoms of adverse health effects related to silica exposure in the final standard for general industry, maritime, and construction trades.

All examinations which are included in an initial medical screening should be repeated in all subsequent examinations, which should occur on a triennial basis. Further, employers should not be allowed access to information pertaining to workers' health conditions in relation to silica exposure without consent by each worker individually. BGA recommends that the final standard require that written medical opinions be provided directly to employees. Written opinions or other information from medical examinations should be provided to the employer ONLY on initiation by, and with the written consent of, the employee. Patient-provider confidentiality should be maintained both for its own sake, and to prevent the 'black-listing' of workers who show signs of silica-related disease. New silica standards should include express prohibitions against worker discrimination on the basis of medical conditions.

Strengthening Hazard Communication

OSHA's proposed standards for informing employees of the dangers of crystalline silica, as formulated, is insufficient. Specifically, the training standards should be strengthened, emulating that which exists for asbestos in general industry. The rule should contain an express statement

detailing when compliance with hazard communication standards is required. OSHA should include a requirement for a written compliance plan or exposure control plan in the final silica standard, as it has with most other health standards. Further, OSHA should follow the well-established approach followed in its other particulate dust standards, and prohibit cleaning practices using dry sweeping and compressed air. OSHA should require HEPA-filtering vacuuming and/or wet methods whenever silica dust is present.

As advocates for good, middle-class jobs, the BlueGreen Alliance supports OSHA in its work to revisit occupational exposure levels of respirable crystalline silica. Revised and strengthened standards, coupled with seeking exposure levels even lower than the new standards, can benefit American workers and, by example, workers around the world. No job can be considered a good job if it is not, first and foremost, a safe job. Accordingly, we thank you for your leadership on this critical health and safety issue and look forward to working with you in the months ahead.

Sincerely,

David A. Foster
Executive Director
BlueGreen Alliance

[i] "*Silica: A Lung Carcinogen*," Streenland and Ward, CA: A Cancer Journal for Clinicians, Vol. 64, Jan/Feb 2014. http://onlinelibrary.wiley.com/doi/10.3322/caac.21214/abstract