The Honorable Roger C. “Bobby” Scott
Chairman
Committee on Education and Labor
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Scott:

I am responding to your October 7, 2019, letter to the Department of Labor (Department) regarding the Occupational Safety and Health Administration’s (OSHA) efforts to protect workers from the hazards posed by exposure to respirable crystalline silica (silica). The Department shares your concern that the health and safety of all workers be appropriately protected in the workplace.

OSHA is taking several actions to protect workers in covered industries from the risks posed by exposure to silica. First, OSHA is currently enforcing the 2016 silica standards that limit allowable exposure to silica in construction, general industry, and maritime. The 2016 standards established a permissible exposure limit (PEL) of 50 micrograms of silica per cubic meter of air (50 µg/m³) as an eight-hour time-weighted-average.¹ The standards also include other provisions to protect employees, such as requirements for exposure assessment, methods for controlling exposure, respiratory protection, medical surveillance, hazard communication, and recordkeeping. In addition, the construction standard includes an innovative approach (Table 1) that allows employers to protect workers who are engaged in certain common construction tasks through the implementation of specified engineering and work practice control methods and respiratory protection requirements, rather than through the traditional approach of assessing employee exposures to silica and implementing control measures that limit such exposures to the PEL. OSHA estimates that these standards will prevent 642 deaths and 918 new cases of silica-related disease each year.

Second, OSHA has been engaged in a robust public outreach effort to educate employers on the new standards and assist them in their efforts to protect their workers. For example, following the issuance of the 2016 standards, OSHA worked with industry and labor stakeholders from both construction and general industry to develop answers to Frequently Asked Questions (FAQs) about the standards. This collaborative effort resulted in two sets of FAQs, one for construction and the other for general industry, which include a total of 134 questions and answers covering 23 issue areas that were of concern to the stakeholders. In addition, OSHA developed Small Entity Compliance Guides for construction and general industry. These guides provide an easy-to-understand overview of the steps that employers must take to comply with the standards. OSHA has also developed a number of other helpful resources for employers, including a series of videos that instruct users on methods for controlling exposure to silica dust.

¹ The previous PELs were approximately equivalent to 100 µg/m³ for general industry and 250 µg/m³ for construction and shipyards.
when performing common construction tasks or using construction equipment, sample training PowerPoints, and letters of interpretation.

Third, on July 29, 2019, OSHA published a Request for Information (RFI) in the Federal Register to obtain input from stakeholders on potential revisions to Table 1 in the construction standard. 84 FR 41667. As noted above, the construction standard provides employers with two options to limit the exposures of workers engaged in the tasks listed on Table 1: (a) they can either assess employee exposures to silica and implement control measures that limit such exposures to the PEL; or (b) they can choose to implement the requirements listed on Table 1. In the 2016 final silica rule, OSHA explained that it expects employers to choose the latter option and follow Table 1 because it simplifies compliance and avoids the challenges of accurately assessing employee exposures to silica in construction work. In the RFI, OSHA asked stakeholders for information to help the agency decide whether to propose expanding Table 1—a move that could help employers protect their employees in an easier, less burdensome manner. The agency received nearly one hundred comments on the RFI and is currently reviewing those comments.

Fourth, OSHA is currently developing an updated silica directive to provide guidelines and establish inspection and enforcement procedures for the silica standards. The silica directive, like all of OSHA’s directives, is designed to ensure uniformity when addressing hazards in the workplace. OSHA’s directives also typically provide instructions to states and territories with OSHA-approved workplace safety and health programs regarding their adoption of inspection and enforcement procedures. As you may be aware, California and Washington, two of the states profiled in the Centers for Disease Control and Prevention report referenced in your letter, are OSHA State Plan states. All State Plan states must develop standards that are at least as effective as OSHA standards and are responsible for conducting inspections to enforce their standards.

Finally, OSHA will soon issue an Instruction for implementing a National Emphasis Program (NEP) on silica (silica NEP Instruction). The new silica NEP Instruction will replace OSHA’s prior silica NEP Instruction issued on January 24, 2008, which was cancelled last October 2017 because it was based on OSHA’s old silica standards. The new silica NEP Instruction, like its predecessor, will describe policies and procedures for implementing an NEP to identify and reduce or eliminate worker exposures to silica in general industry, maritime, and construction. On December 17, 2019, the Department provided a ten-day notice to the House and Senate Appropriations Committees of OSHA’s intention to announce this NEP. Enclosed is a copy of the announcement.

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2 OSHA published Interim Enforcement Guidance to compliance safety and health officers for enforcing the construction and general industry/maritime standards on October 19, 2017, and June 25, 2018, respectively.
In sum, the Department agrees with the importance of appropriately protecting workers against excessive silica exposure and has been working diligently to assure the health and safety of these workers.

Sincerely,

[Signature]
Joe Wheeler
Deputy Assistant Secretary

cc: The Honorable Virginia Foxx, Ranking Member, Committee on Education and Labor

Enclosure