

**Congress of the United States**  
**House of Representatives**  
Washington, DC 20515-2202

## Stop Another OSHA Regulatory Overreach: Silica Dust

Dear Colleague:

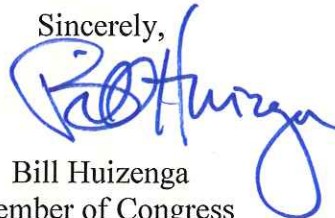
OSHA proposed a rule to limit exposure levels for silica dust in 2013. Three years later, the proposed rule is still threatening many industries in our districts and will be finalized imminently. In the meantime, the rulemaking is creating significant uncertainty for a number of industries around the country including construction, oil and natural gas, foundries, aggregates, brick manufacturers, maritime, and many more.

The silica exposure limits set in the rule are unworkable unless our constituent companies shoulder the cost of implementing a host of prescribed engineering and work practice controls. Even if they implement these costly controls, commercial laboratories have not been able to measure workplace silica levels with accuracy or consistency making it nearly impossible for employers to determine if they are in compliance.

We cannot stand by while another burdensome and unworkable regulation is piled on small businesses that are still struggling to recover from an unsettled economy. I encourage you to join me in sending the following letter to the House Appropriations Committee requesting that the fiscal year 2017 Labor-HHS-Education appropriations bill include language that would prohibit funding to promulgate or implement any rule relating to silica until additional studies and reports are completed

To join me on this letter or for more information, please contact my legislative director Nathan Bult by March 18. ([nathan.bult@mail.house.gov](mailto:nathan.bult@mail.house.gov)).

Sincerely,



Bill Huizenga  
Member of Congress

March 24, 2016

The Honorable Harold Rogers  
Chairman  
Committee on Appropriations  
H-305 The Capitol  
Washington, DC 20515

The Honorable Nita Lowey  
Ranking Member  
Committee on Appropriations  
1016 Longworth House Office Building  
Washington, DC 20515

The Honorable Tom Cole  
Chairman  
Subcommittee on Labor, Health and  
Human Services, Education, and Related  
Agencies  
2358-B Rayburn House Office Building  
Washington, DC 20515

The Honorable Rosa DeLauro  
Ranking Member  
Subcommittee on Labor, Health and  
Human Services, Education, and Related  
Agencies  
1016 Longworth House Office Building  
Washington, DC 20515

Dear Chairmen Rogers and Cole and Ranking Members Lowey and DeLauro:

We are concerned with the Occupational Safety and Health Administration's (OSHA) proposed rulemaking to revise the standard on occupational exposure to respirable crystalline silica (RCS) issued in the Federal Register on September 12, 2013. OSHA's proposed rule would significantly reduce the permissible exposure level (PEL) for silica in the workplace to 50 micrograms per cubic meter ( $\mu\text{g}/\text{m}^3$ ) and would establish an action level of  $25\mu\text{g}/\text{m}^3$ .

We are particularly alarmed by the new regulatory burdens this rule would place on huge segments of our economy as well as its projected costs, particularly for small businesses. Last year, in the draft Committee Report to accompany H.R. 3020, the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act for 2016, the Committee expressed concern "that OSHA has grossly underestimated the costs of implementing the proposed new standard." As a result the Committee urged OSHA "to delay enforcement of any new standard until it can demonstrate the effectiveness of equipment designed to accurately measure workers' exposure to silica and until it can demonstrate that methods for reducing exposure to silica across all applicable industries can be feasibly implemented in a cost effective manner."

OSHA is now one year closer to finalizing the silica rule. If finalized, the rule will be one of the most comprehensive the agency has ever undertaken. The economic consequences will be significant to a vast array of industry sectors located in our districts, including construction, oil and natural gas, aggregates, foundries, brick manufacturers, maritime, and many more. We remain concerned OSHA's proposed silica regulation is technologically and economically infeasible, would halt the growth of many small businesses, and cause tremendous disruption in industries that are still struggling in the aftermath of the recession.

In addition, substantial evidence cited by OSHA and other parties indicates that many commercial laboratories cannot, with accuracy or consistency, measure workplace silica levels. This information is critical for employers to assess their compliance, particularly at the proposed PEL and action level.

In light of these concerns, we respectfully request your consideration of language in the fiscal year 2017 Labor-HHS-Education appropriations bill that would prohibit funding to promulgate or implement any rule relating to respirable crystalline silica until additional studies and reports are completed, including:

- **OSHA conducts a new small business panel review under the Small Business Regulatory Enforcement Fairness Act (SBREFA).** OSHA conducted a SBREFA review related to respirable crystalline silica in 2003 - more than ten years before the corresponding regulation was actually proposed. Since then, much has changed in the economy and in the workplace.
- **The National Academy of Sciences (NAS) conducts several studies to answer key issues that OSHA has not addressed.** NAS should study the ability of affected industries, particularly small businesses, to comply with the new standard. In addition, NAS should examine the ability of commercial laboratories to measure silica exposure accurately, consistently, and at the proposed OSHA exposure limit and proposed action level. Finally, NAS should also study the level of protection provided by personal protective equipment (PPE), the costs of the different types of PPE compared with the costs of engineering, and work practice controls.

This language mirrors language that was included in the Senate's FY 2016 Labor, Health and Human Services, and Education, and Related Agencies Appropriations bill. We believe this approach would be a constructive step to ensuring a technologically and economically feasible rulemaking.

Thank you for your consideration of this request.

Sincerely,

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Bill Huizenga  
Member of Congress