

# CRYSTALLINE SILICA RULE

## Block the Occupational Safety & Health Administration (OSHA) from Implementing Crystalline Silica Rule

### Action Needed:

Support legislation that would require OSHA to provide additional studies and reports prior to enforcing any silica rule. The legislation should include requirements that: 1) OSHA convene a new small business review panel related to crystalline silica and 2) the National Academy of Sciences conduct studies focusing on the ability of affected industries to comply with the new standard; the ability of commercial laboratories to measure silica exposure accurately; and the level of protection provided by personal protective equipment and associated costs compared with the costs of engineering and work practice controls.

### Background:

- OSHA has issued a final rule that would revise the standard on occupational exposure to respirable crystalline silica. The rule would significantly reduce the permissible exposure level for silica in the workplace to 50 micrograms per cubic meter. Crystalline silica is found in numerous building materials and a number of construction activities result in the release of crystalline silica. Silica can be found in concrete, brick, gravel, stone, tile, as well as many other construction materials. Because of the ubiquitous nature of silica, nearly every employee who performs work on a construction site will work with or near a product that contains it. While safety is the number one priority for the construction industry, the approach OSHA has taken to regulate crystalline silica exposure in the construction industry could actually compromise safety rather than improve it.

### AGC Message:

- **The Rule is Not Technologically or Economically Feasible.** OSHA's rule prescribe control methods that contradict existing safety practices and compliance with it will ultimately cost the construction industry nearly \$5 billion annually. This cost estimate makes the rule potentially the most expensive OSHA regulation ever for the industry. About 80 percent of the cost will be direct compliance expenditures and 20 percent will come in the form of increased prices for construction materials and building products.
- **Laboratories that are Responsible for Analyzing Air Samples do not have the Ability to Measure Exposures Accurately.** Independent studies, and even OSHA's own testing, have shown that the laboratories are only able to determine within a margin of error of  $\pm 50\%$  what level of silica is present in the samples at the rule's lower exposure level. This means that employers will not be able to reliably determine whether they have met the requirements of the standard.
- **OSHA has not estimated the impact on small employers in over 10 Years.** OSHA last convened a small business advocacy review (SBAR) panel to consider an earlier proposed rule regulating crystalline silica in 2003. The 2003 panel recommendations resulted in OSHA withdrawing their original proposed silica rule. Since that time, the economy and the construction industry have changed drastically. In proposing this new rule regulating silica, OSHA has not only failed to convene a new small business advocacy review panel, but has also ignored the original 2003 panel recommendations.
- **The Rules Fails to Explain How Silica-Related Illnesses and Deaths will be Reduced.** The agency itself has admitted a failure to properly enforce existing standards, while 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.