February 11, 2014

OSHA Docket Office
Technical Data Center, Room N-2625
The Occupational Safety and Health Administration
The United States Department of Labor
200 Constitution Avenue, NW
Washington, DC 20001

Re: OSHA- 2010-0034

Dear Docket Officer,

The Associated General Contractors of America (AGC), the leading national construction trade association in the United States, places safety in the construction industry as a top priority. AGC appreciates this opportunity to submit comments for the Occupational Safety and Health Administration’s (OSHA) proposed rule on Occupational Exposure to Crystalline Silica.

AGC is concerned with the approach OSHA has taken in the proposed rule to regulate the hazards of crystalline silica exposure in the construction industry. The regulation is based on out of date studies and an incomplete understanding of the construction industry. Crystalline silica is found in numerous building materials and a number of job activities result in the release of a certain amount of crystalline silica. Silica can be found in concrete, brick, gravel, stone, tile, as well as many other construction materials. Essentially, construction cannot occur in today’s world without materials that contain silica. Because of the ubiquitous nature of silica, nearly every employee who performs work on a construction worksite will work with or near a product that contains it, and nearly every employee could be exposed to crystalline silica.

Specifically, the agency has proposed a significant reduction to the permissible exposure limit (PEL) from the current level to 50 µg/m³ as well as the other numerous ancillary provisions contained in the proposal. These provisions include exposure monitoring, regulated areas or written access control plans, Table 1as an option to exposure assessments, and medical surveillance. As written, these provisions are unworkable in the construction environment due to the dynamic nature of our industry where conditions routinely change. The proposed regulation fails to recognize the unique nature of construction operations and the dynamic way construction sites change from day to day, not just from the activities but often the personnel and even the companies working on a site that perform different functions and can be on site for a couple of hours or a couple of months.

As a member of the Construction Industry Safety Coalition (CISC), AGC supports the comments submitted on behalf of each participating construction trade association because they better recognize the complexity of the construction environment. Those comments raised a number of significant issues regarding the proposed rulemaking, including:
• Technological and economic feasibility;
• OSHA’s reliance on a ten-year-old SBREFA report;
• Limited set of tasks/activities on which the standard is based;
• Recordkeeping; and
• Regulatory alternatives.

On behalf of our nearly 25,000 firms, including 6,500 of America’s leading general contractors, 8,800 specialty-contracting firms, and more than 10,400 service providers and suppliers all associated with AGC through a nationwide network of chapters across the nation, AGC appreciates this opportunity to comment on OSHA’s proposed rule for Occupational Exposure to Crystalline Silica. AGC remains strongly committed to the safety of workers in the construction industry and our valued relationship with the Occupational Safety and Health Administration. We would welcome the opportunity to work with OSHA to develop a rule that more appropriately address crystalline silica exposure in construction.

Sincerely,

[Signature]
Kevin Cannon, CSP
Director, Safety and Health Services