

WRITTEN STATEMENT OF SAM B. PETSONK

Before the U.S. House of Representatives, Committee on Education and Workforce
Field Hearing: “Protecting Workers and Powering America: The Future of Mining”

Fort Branch, Indiana — May 8, 2026

Chairman, Ranking Member, Members of the Committee — thank you. I am a miners’ health & safety lawyer from West Virginia. I formerly staffed U.S. Senators Robert C. Byrd and Carte Goodwin as a legislative assistant on mine safety when the Congress enacted major reforms to the black lung and mine safety statutes, and appropriated historic sums to remove case backlogs and hasten access to justice for miners. Thus, I am closely familiar with the legislative history and appropriations challenges surrounding American miners’ health, safety, and medical care. For the past decade, I’ve represented thousands of coal miners and their families nationwide to improve health, safety, and economic protections, litigating against numerous mining companies and multiple federal agencies.

Today, I want to address two principal issues: 1) the silica rule recently set aside by the U.S. Mine Safety and Health Administration, and 2) the danger of cutting safety agencies as we face heightened risks from mining in heavily-depleted mineral basins, such as Appalachia and the Illinois Basin (including Indiana).

I. The Silica Rule

The United States of America has taken a hundred years to provide miners with an independently enforceable limit on highly-toxic respirable silica dust. We have instituted a breathable silica limit for every other major category of American workers — except for the miners who face the most extreme exposures.

In the 1930s, the Hawks Nest Tunnel project in Fayette County, West Virginia forced young men to drill silica-bearing sandstone with inadequate protections. It shocked the nation when hundreds of mostly African-American rock drillers died of acute silicosis at Hawks Nest. Today, from my office in that same county, I represent many miners in their thirties and forties preparing for double lung transplants from breathing sandstone in amounts that, for well over

fifty years, the mining industry has known are downright deadly. Hundreds if not thousands of Appalachian miners have experienced such extreme sandstone exposure in recent decades that mining families are facing another, slow-moving Hawks Nest Disaster.

In 1974, NIOSH recommended a protective exposure limit for silica dust. In April 2024, MSHA finally promulgated a silica rule. Yet, inexplicably and indefensibly, the current Administration summarily halted that rule. The mining companies sued. The Eighth Circuit stayed the rule. The United Mine Workers and Steelworkers unions tried to step in to defend the silica rule. The court denied their motion. And then MSHA walked away from defending the rule — telling the court it would “reconsider” the rule — even though the Mine Act prohibits backsliding once a safety or health standard is promulgated. The agency that’s supposed to protect America’s miners is actively abandoning them in the face of the most widespread, severe, and well-proven health hazard in generations.

Every day this rule is weakened or unenforced, it is a conscious choice by this Administration to abandon miners to a miserable fate from lethal silica dust. It is a gruesome fate to smother to death at extremely young ages. And it is completely preventable.

Here’s the point I want to leave with this Committee: even now, until the rule comes back into force, MSHA already has authority – and a duty – under the Mine Act to cut silica exposure dramatically today. They did it before through their “Silica Enforcement Initiative” starting in 2022. They can do it again. This Committee can urge them to do so.

MSHA can audit production reports to cite operators for putting miners downwind of cutting machines in violation of their ventilation plans. MSHA can conduct sequence-sensitive sampling, so the dust pumps run when crews are turning breaks and cutting sandstone. They can audit deep cuts and reported tonnage, so operators can’t game the sampling system. They can use impact inspections and pattern-of-violation reviews at thin-seam mines where sandstone is common.

Most of all, MSHA must fully restore the silica rule, and receive sufficient funds to enforce it. This is urgent. After a hundred years of surrendering to silicosis, we owe this to America's miners.

II. Run Coal, Run Risk

The second issue is how unsafe it is to be cutting safety and health agencies as we face compounding safety and health risks from increasing mineral production — especially in heavily-depleted mineral regions where risks abound. This Administration is calling on America to “run coal.” But in Appalachia, we have heard “run coal” before. Massey Energy CEO Don Blankenship told miners to “run coal” in the face of decreasing productivity and rising risks in the Central Appalachian Basin (including the known risk of silicosis from mining through large amounts of sandstone). Twenty-nine men died fifteen years ago on April 5, 2010 at Massey's Upper Big Branch longwall mine, as they struggled to ventilate a massive longwall operation, grasping for higher productivity as margins tightened and reserves dwindled regionally.

Today, the message is the same to “run coal.” But risks are greater because our coal basins are even more depleted. To reach a ton of coal in Central Appalachia today, miners must cut through enormous volumes of sandstone. Likewise, in Indiana, we are mining reserves that were left aside years ago as uneconomic. The Illinois Basin will face declining productivity over the next five to ten years just like Appalachia has over the past twenty. As the margins tighten in heavily-depleted mining regions, the geological risks will increase (unstable roofs and highwalls, methane, respirable dust, etc.), along with corporate pressure to save money by cutting corners. When you get less mineral per ton of earth mined, the profits go down and the risks go up.

In that context, it is reckless to hollow out the agency that's supposed to keep miners alive. Confronted with the “Fork in the Road,” at least [seven percent of MSHA's](#) experienced enforcement staff left the agency. Roughly 90 anticipated new hires never came on as inspectors or specialists. DOGE terminated leases on numerous MSHA field offices.

Within the past week, the Administration has reportedly laid off roughly one third of the staff of the Federal Mine Safety and Health Review Commission (FMSHRC) — shutting down

FMSHRC's entire Pittsburgh office, terminating one of the ALJs and one of the commissioners. We now have only three ALJs nationwide to hear all the thousands of mine safety and health enforcement actions and miners' grievances. By the end of August 2026, due to these firings and attrition, it is now likely the Commission will not have a quorum and cannot conduct any business. This Commission has lacked a quorum and accrued a backlog before — leading to serious harms. Please do not let the Administration manufacture another crisis for America's miners by gutting FMSHRC.

Currently, I'm concerned MSHA cannot sustain its impact inspections to target bad actors or the necessary "Part 50" audits to ensure that our injury and illness data are accurate. On April 30, 2026, the [Office of the Inspector General found](#) that MSHA had only documented an investigation for three percent of accidents that merited scrutiny under agency policies — among other alarming shortcomings. The American Federation of Government Employees (AFGE) union representing inspectors says MSHA can barely keep up with the four-times-a-year inspections the law requires at underground mines and twice-annual inspections on surface mines.

On the health side, it's just as bad. NIOSH — which runs the black lung screening program and approves the dust samplers we rely on — was cut by DOGE last April. My clients sued and won an injunction restoring the mining programs, but again decades of irreplaceable experience were lost. As of last month, the Pittsburgh Mining Research Division of NIOSH still could not fully staff the laboratory that certifies continuous personal dust monitors (CPDMs). The current generation of CPDMs will eventually need to be replaced. If NIOSH cannot certify the next generation, we face a supply-chain bottleneck for the devices used to detect whether miners are over-exposed. This is the kind of disruption caused by DOGE, which is very hard to undo and very dangerous for thousands of American miners.

We must also address legacy commitments and emerging risks in mining, including the long-overdue Black Lung Benefits Improvement Act and health protections for rare earth miners, a new type of mining that is safer in some regards but may still pose risks.

Legacy Commitments. Miners struggle mightily to care for their families when their careers are cut short due to disabling black lung. Black lung disability benefit rates have not kept pace with inflation, and many miners are squandering what's left of their life savings surviving on meager monthly payments of less than a thousand dollars. Congress should urgently pass the Black Lung Benefits Improvement Act to address these and related challenges for disabled American miners.

A Note on Emerging Risks in Miners' Health. As America and the world diversify our fuel supplies, MSHA must protect all miners and stay ahead of risks faced in rare earth mining—cobalt, lithium, and so on. Is MSHA implementing lessons at home from investigative work recently conducted in the Democratic Republic of the Congo by DOL's International Labor Affairs Bureau? Are MSHA and NIOSH sufficiently conversant in both the health and safety risks of rare earth mining? What steps are taken by NIOSH and by MSHA's health inspections at rare earth operations to monitor exposures? Relatedly, MSHA has a decades-old Memorandum of Understanding ceding jurisdiction of in situ leaching (ISL) to the Nuclear Regulatory Commission, which has mostly applied to uranium operations. If rare earths are outside of the NRC's expertise, should MSHA assert jurisdiction over future ISL operations for rare earths?

III. Conclusion

Miners aren't asking for special treatment. They're asking for the laws on the books to be enforced. MSHA and NIOSH have powerful tools in the Mine Act. What they need is the will, the staffing, and the funding to effectively use them.

I urge this Committee, on a bipartisan basis:

1. Insist that MSHA preserve the full requirements of the 2024 silica rule.
2. Demand that MSHA amplify silica enforcement using existing tools.
3. Preserve a functioning Federal Mine Safety and Health Review Commission.
4. Direct MSHA to routinely conduct impact inspections, Part 50 audits, and accident investigations.
5. Ensure that DHHS fully staffs NIOSH's dust sampler-approval function.
6. Pass the Black Lung Benefits Improvements Act.

Thank you. It is an honor to appear here. I look forward to any questions.