

MSHA's Proposed Coal Mine Dust Rule

Proposed Rule Overview

On October 19, 2010 the Mine Safety and Health Administration (MSHA) published a proposed rule for “Lowering Miners’ Exposure to Respirable Coal Mine Dust, Including Continuous Personal Dust Monitors” (Proposed Dust Rule). The Proposed Dust Rule would:

- Lower the existing limits for respirable coal mine dust from 2.0 milligrams per cubic meter (mg/m³) to 1.0 (mg/m³); and
- Require the use of unreliable sampling data from a single working shift to determine compliance with the standard. Current rules use a more reliable sampling program by averaging 5 production samples.

Problems with the Proposed Rule

MSHA contends the Proposed Dust Rule is designed to reduce the incidence of coal workers pneumoconiosis (CWP) by reducing the exposure of miners to respirable coal dust. However, since 1980, average coal dust exposures and the incidence of CWP have declined under the existing standards.

The proposed rule is premised on the discovery of cases of “rapidly progressing CWP” in a three state region located in Central Appalachia. The data does not demonstrate a causal connection between the current coal dust exposure levels and incidence of disease. Rather, MSHA data identifies a significant increase in silica exposure due to mine-seam conditions as the cause of the rise in CWP cases in this small region. Thus, instead of focusing upon the real problem, MSHA is using a localized problem that needs to be addressed—silicosis, not CWP—as justification to impose a nationwide costly regulation on the entire underground coal industry.

NMA Position

The scope and target of the Proposed Dust Rule is unwarranted and misdirected. An objective assessment of all available data does not support MSHA’s justification that coal dust exposure at levels set by the current standard is leading to increased cases of CWP. In fact, the data shows no increase in CWP incidence in all bituminous and subbituminous coal mining regions except for the three MSHA districts where certain coal seam conditions have given rise to significant increases in silica exposure. The real cause for the localized rise in the incidence of lung disease—exposure to elevated levels of silica—needs to be addressed in a focused manner.

The coal industry remains fully committed to improving the health and safety of miners. MSHA should work with industry to achieve this goal, rather than imposing a one-size-fits all, costly rule on the entire underground coal industry that lacks a clearly demonstrated health benefit. MSHA should be required to demonstrate that the regulations it seeks to impose would actually reduce the incidence of disease and that the technology it seeks to require is mine worthy, miner friendly and serves as a real solution to any demonstrated problem.

Congressional Action

In the Consolidated Appropriations Act of 2012, Congress directed the U.S. Government Accountability Office (GAO) to evaluate the completeness of MSHA's data collection and sampling in order to analyze MSHA's proposal to lower the permissible exposure limits for coal mine dust and provide an interim report to Congress.

Rather than conducting a thorough analysis of all available health data, GAO merely rehashed MSHA's claimed justification for the rule. GAO additionally ignored recent NIOSH Enhanced X-ray Surveillance data that documents there is not an increased incidence of black lung disease across the underground coal industry, but the increased incidence is limited to MSHA's Districts 4, 5 and 6.

Congress should closely examine through its oversight role MSHA's pending rulemaking to determine:

- whether incidence of coal workers pneumoconiosis is increasing or decreasing over the last ten years;
- whether all available data—not just select pieces—represents the total population of coal miners;
- whether the data demonstrates regional variances in prevalence and/or dust exposure, and;
- whether silicosis is influencing the incidence of coal workers pneumoconiosis and, if so, how.

Instead of continuing the development of a misdirected and costly rule, MSHA should then use this information to re-propose for comment a regulation focused upon the problem clearly demonstrated by the best available data.

For more information please contact Virginia Gum at (202) 463-2605 or ygum@nma.org.