

# APPALACHIAN CITIZENS' LAW CENTER, INC.

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November 15, 2010

Joseph Main  
Assistant Secretary of Labor  
Mine Safety and Health Administration  
1100 Wilson Blvd., 21<sup>st</sup> Floor  
Arlington, VA 22209-3939

Dear Mr. Main:

I recently learned that MSHA will hold six public hearings on the proposed rule "Lowering Miners' Exposure to Respirable Coal Mine Dust, Including Continuous Personal Dust Monitors." I was disappointed to learn that none of these public hearings will be held in Eastern Kentucky. In your letter to me dated January 8, 2010 you assured me that stakeholder workshops on the End Black Lung campaign would be held in the Kentucky coal fields. I am writing to ask that MSHA schedule an additional hearing in the Eastern Kentucky region. I suggest that a hearing be held in the Pikeville, Prestonsburg, Hazard or Whitesburg areas.

I applaud MSHA's increased attention to the issue of Black Lung. In view of the 1995 NIOSH Criteria Document recommending a reduction in the allowable amount of respirable dust and the more recent evidence of increased incidence of coal workers' pneumoconiosis, it is imperative that MSHA carry out its statutory duty to eliminate the hazard of black lung. The announcement promises much needed attention to this serious problem.

Based on the most recent NIOSH survey data, there is an alarmingly high rate of pneumoconiosis, advanced pneumoconiosis and progressive massive fibrosis among working coal miners in eastern Kentucky. As you know, NIOSH has identified certain regions of the country as "hot spots" for black lung disease with significantly high rates of pneumoconiosis and progressive massive fibrosis among younger miners. Several Eastern Kentucky counties have been identified as being "hot spots".

Holding a public hearing on the proposed rule in Eastern Kentucky would be an opportunity for MSHA to have a public forum to encourage miners to be more proactive in reducing black lung disease. For over the twenty years I have represented coal miners seeking benefits under the Federal Black Lung Act. Miners have told me many times that unless a state or federal mine inspector was at the mine it was common to not hang ventilation curtains and to

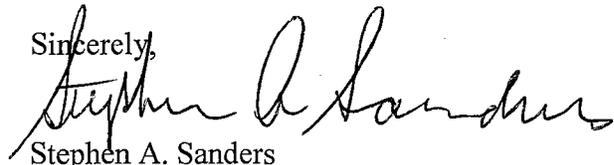
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not use water sprays to control respirable dust. Miners are discouraged from challenging these practices for several reasons ranging from fear of direct retaliation by management to pressure to qualify for production bonuses. As you are aware, there are no union mines in Eastern Kentucky and it is very unusual for an individual miner to stand up against the operator and the other miners and demand mining be done safely and in compliance with the law.

The nearest hearing on the schedule is at the National Mine Health and Safety Academy Beaver, West Virginia, which is a drive of three hours or more from Eastern Kentucky. Given the distance it is highly unlikely that any miner from Eastern Kentucky will attend any of the public hearings. Furthermore, the local news media is much more likely to provide coverage of the MSHA proposal if the public hearing is held locally.

I strongly encourage you to hold a public hearing on the proposed rule in Eastern Kentucky.

Sincerely,

A handwritten signature in cursive script that reads "Stephen A. Sanders". The signature is written in black ink and is positioned above the printed name and title.

Stephen A. Sanders  
Attorney at Law