

# MSHA's Final Rule to Lower Miners' Exposure to Respirable Coal Mine Dust

Issued: April 23, 2014

This PowerPoint is a briefing tool only. The final rule was published on April 23, 2014 and can be accessed at the below link.

<http://www.msha.gov/endblacklung>

# Background

- Centerpiece of MSHA's campaign to "End Black Lung – Act Now!"
  - enhanced enforcement, collaborative outreach and education, training and rulemaking
- Implements the intent of the Mine Act
- Addresses recommendations in NIOSH's Criteria Document and the Secretary of Labor's Dust Advisory Committee Report

# Background (continued)

- Builds on years of research and was developed with input from industry, labor, and health professionals
- Protects miners' health and responds to commenters' concerns
- Significantly improves health protection for all coal miners

## Background (continued)

- Proposed rule issued Oct. 14, 2010
- 7 hearings held, 2000 pages of comments received, responsive to comments
- Seeks to fulfill a promise made by Congress in passing 1969 Coal Mine Health and Safety Act

# Why This Rule Is Needed

- Black lung disease has been the cause or contributing factor in the deaths of more than 76,000 miners since 1968, according to NIOSH studies of death certificates -- over 6,400 in latest 10 year survey
- More than \$45 billion in federal compensation benefits have been paid to victims and their survivors
- Miners continue to get the disease, including younger miners

# What This Rule Does

- The rule reduces miners' exposure to dust by closing loopholes and improving sampling
  - Requires full shift sampling
  - Requires sampling on all shifts
  - Changes the method of averaging of miner's samples that masked some miners exposure to dust levels above the citation value
  - Increases required production for valid sample from 50% to 80% to secure more representative samples
- Reduces standard from 2.0 mg/m<sup>3</sup> to 1.5 mg/m<sup>3</sup> where coal is mined and cuts dust exposure levels in half from 1.0 to 0.5 mg/m<sup>3</sup> in intake entries and for miners with the disease

# What This Rule Does (continued)

- Significantly increases sampling frequency
- Uses new cutting edge technology – continuous personal dust monitor (CPDM) – to provide real-time cumulative dust concentration readings
- Requires immediate corrective action when sample meets or exceeds the citation value instead of allowing miners to work in unhealthy dust for days or weeks before corrective actions are taken
- Requires quicker revision of dust control plan, implementing controls on a permanent basis
- Improves early warning of disease by expanding the medical surveillance program
- Improves operator sampling certification process - adds re-certification and decertification

# How The Rule Will Be Implemented

Takes a common sense phase-in approach over two years; compliance assistance provided by MSHA

- Phase 1 - Major changes on effective date of rule
  - Requires full shift sampling
  - Requires immediate action to correct conditions when citation value exceeded
  - Requires 80 % production for representative sample



# How The Rule Will Be Implemented (continued)

- Each sample assessed for compliance
- Noncompliance is based on:
  - Failure to take immediate action when any sample meets or exceeds citation value
  - 2 or more out of 5 samples meets or exceeds citation value or
  - Average of 5 samples meets or exceeds citation value
- Citation for overexposure requires submission/revision of dust control plans
- On-shift examination of dust controls requires specific checks, recording of examination and signing of record by mine official

# How The Rule Will Be Implemented (continued)

- Additional DWPs established at all surface mines/facilities
  - All highwall drills
  - Bulldozers
- Part 90 miners (miners with disease) routine sampling increased to 5 days each quarter
- Noncompliance based on MSHA sampling will be determined on a single full-shift sample

# How The Rule Will Be Implemented (continued)

- Phase 2 – Major changes 18 months after effective date
  - For underground mines – operator sampling
    - Sampling with CPDM; quarterly sampling – consecutive shifts until 15 valid samples collected
    - Sampling of each designated occupation and other designated occupations (those exposed to highest dust)
      - ✓ 2 shifts/day = 7.5 days for 15 shifts on average
      - ✓ 3 shifts/day = 5 days for 15 shifts on average
      - ✓ Additional sampling can be required for the designated occupation

# How The Rule Will Be Implemented (continued)

- Noncompliance based on:
  - ✓ Failure to take immediate action when any sample meets or exceeds citation value
  - ✓ 3 or more out of 15 samples meets or exceeds the citation value or
  - ✓ Average of all 15 samples meets or exceeds the citation value

# How The Rule Will Be Implemented (continued)

- Outby areas
  - Have option to use CPDM for sampling
  - Noncompliance based on:
    - ✓ Failure to take immediate corrective action when any sample meets or exceeds citation value
    - ✓ 2 or more out of 5 samples meets or exceeds citation value or
    - ✓ Average of 5 samples meets or exceeds citation value

# How The Rule Will Be Implemented (continued)

- Surface mines – operator sampling
  - Have option to use CPDM for sampling
  - Noncompliance is based on:
    - ✓ Failure to take immediate corrective action when any sample meets or exceeds citation value
    - ✓ 2 or more out of 5 samples meets or exceeds citation value or
    - ✓ Average of 5 samples meets or exceeds citation value

# How The Rule Will Be Implemented (continued)

- Part 90 miners (diagnosed with pneumoconiosis)
  - Requires 5 quarterly samples with CPDM
  - Noncompliance is based on:
    - ✓ Failure to take immediate corrective action when any sample meets or exceeds citation value
    - ✓ 2 or more out of 5 samples meets or exceeds citation value or
    - ✓ Average of 5 samples meets or exceeds citation value

# How The Rule Will Be Implemented (continued)

- Phase 3 – Key changes 24 months after effective date
  - Underground mines standard lowered from 2.0 to 1.5 mg/m<sup>3</sup> and in intake entries from 1.0 to 0.5 mg/m<sup>3</sup>
  - Part 90 miners (diagnosed with pneumoconiosis) standard is lowered from 1.0 to 0.5 mg/m<sup>3</sup>
  - Surface mines standard is lowered from 2.0 to 1.5 mg/m<sup>3</sup>



# MSHA Compliance Assistance

- Stakeholder meetings to explain rule
  - Date 05/08/14 Beaver, WV (District 4/District 12)  
National Mine Health and Safety Academy
  - Date 05/20/14 Hazard (D5/D6/D7)
  - Date 05/22/14 Washington, PA (D2/D3)
  - Date 05/29/14 Evansville, IN (D8/D10)
  - Date 06/03/14 Birmingham, AL (D11)
  - Date 06/05/14 Grand Junction, CO (D9)

# MSHA Compliance Assistance (continued)

- Mine site information
  - Simple 1-2 page summaries of major sections of the rule
  - Series of pocket cards covering various aspects of the rule
- Best practice dust control workshops
  - Series of workshops to be provided after Oct. 1, 2014
  - Workshops will be a joint activity with NIOSH
  - Four workshops distributed throughout coal mining areas