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$^3$ to 1.5 mg/m$^3$ where coal is mined and cuts dust exposure levels in half from 1.0 to 0.5 mg/m$^3$ 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:
  o Failure to take immediate action when any sample meets or exceeds citation value
  o 2 or more out of 5 samples meets or exceeds citation value or
  o 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
  o All highwall drills
  o 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
    o Sampling with CPDM; quarterly sampling – consecutive shifts until 15 valid samples collected
    o 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
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
  o Have option to use CPDM for sampling
  o 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
  o Have option to use CPDM for sampling
  o 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$^3$ and in intake entries from 1.0 to 0.5 mg/m$^3$
  – Part 90 miners (diagnosed with pneumoconiosis) standard is lowered from 1.0 to 0.5 mg/m$^3$
  – Surface mines standard is lowered from 2.0 to 1.5 mg/m$^3$
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