

MSHA Noise Enforcement Workshops
30 CFR Part 62 “Occupational Noise Exposure”
August 30, 2005 – Grand Junction, CO
September 1, 2005 – Gillette, WY

QUESTIONS and ANSWERS

1. If acoustical materials are placed inside the dragline house will it attract dirt/dust requiring house keeping to maintain its effectiveness? If normal housekeeping damages the acoustical properties of a selected material will it still be considered a feasible control?

Answer: Proper selection of materials and their coverings should always be considered no matter where installed. In addition to their acoustical properties, they should be selected for their durability and ease of cleaning since any material or surface will attract dust. If it is thought that normal housekeeping can damage the material then another material should be considered. A recently evaluated and “newly built” dragline was equipped with acoustical material encased within a perforated metal cover. This material covered the inside walls of the engine house.

2. While conducting noise sampling, when will the dosimeter be placed in “pause mode” and removed from the miner being sampled?

Answer: The Coal Mine Health Inspection Procedures Handbook – Chapter 3, Noise III.E.1.b state in part “...If the miner must leave the mine property during the shift, the inspector should remove the personal noise dosimeter and place it in the “pause” or “standby” mode. Sampling should resume once the miner returns.” III.E.2. state in part “...The personal noise dosimeter must be worn by the miner whose noise exposure is being measured for an entire normal workshift...If unusual conditions arise during the sampling period the sample may have to be voided. Re-sampling must be conducted as soon as possible.”

3. If a miner declines taking an audiogram what is the requirement for record keeping?

Answer: The table provided in 30 CFR Part 62 between 62.140 and 62.150 establishes that audiometric testing is voluntary.

Provision	Condition	Action Required by the Mine Operator
§ 62.120	Miner's noise exposure is less than the action level	None
§ 62.120	Miner's exposure equals or exceeds the action level, but does not exceed the permissible exposure level	Operator enrolls the miner in hearing conservation program (HCP) which includes (1) a system of monitoring, (2) voluntary ,with two exceptions, use of operator-provided

	(PEL)	hearing protectors, (3) voluntary audiometric testing , (4) training, and (5) record keeping.
§ 62.130	Miner's exposure exceeds the PEL	Operator uses/continues to use all feasible engineering and administrative controls to reduce exposure to PEL; enrolls the miner in a HCP including ensured use of operator-provided hearing protectors; posts administrative controls and provides copy to affected miner; must never permit a miner to be exposed to sound levels exceeding 115 dBA.
§ 62.140	Miner's exposure exceeds the dual hearing protection level	Operator enrolls the miner in a HCP, continues to meet all the requirements of § 62.130, ensures concurrent use of earplug and earmuff.

30 CFR 62.170(a) states in part that “The mine operator must offer miners the opportunity for audiometric testing”. Therefore, the mine operator must offer audiometric testing, but submitting to such testing is voluntary on the part of the miner. If the miner declines the testing there is no record for the operator to keep. MSHA suggests that the mine operator keep a record of “offer and decline” to avoid controversy during inspection.

4. What must an operator do if an audiogram taken by a predecessor, prior to September 13, 1999, can't be obtained?

Answer: As published in the Federal Register / Vol. 64, No. 176 on page 49608 “MSHA encourages the use of existing audiograms as baselines because this approach would provide a greater degree of protection for the affected miner. Therefore, the final rule adopts the proposed provision that permits the use of existing audiograms as the baseline at the discretion of the mine operator, if the audiograms meet the testing requirements of this part.” If these audiograms can't be obtained new ones must be conducted as per the rule.

5. Can a mine operator set a new baseline audiogram?

Answer: The Baseline audiogram can only be changed or re-established under the following provisions in Program Policy Letters No. [P04-IV-1](#); [P04-V-1](#);

8. Must a new baseline be established for a miner who was previously enrolled in an HCP, was subsequently laid off from work for more than 12 months, and is called back to work at the same mine?

Answer: No, you may either use the prior baseline audiogram or establish a new baseline.

9. If a miner leaves my mine because I close the mine and takes a job at a different mine, can the new mine operator use the miner's last audiometric test as a baseline for that miner?

Answer: Section 62.190(c)(2) requires that a successor mine operator use the baseline audiogram, or revised baseline audiogram, as appropriate, obtained by the original mine operator to determine the existence of a standard threshold shift or reportable hearing loss. If the second mine where the miner is employed is owned by the same company, the operator of that mine must use the existing audiometric test record. If the mine is owned by a different company, the operator may choose to use the miner's existing audiometric test record if it meets the test procedures in Section 62.171, or the operator can establish a new baseline.

30 CFR 62.170(c) Revised baseline audiogram. An annual audiogram must be deemed to be a revised baseline audiogram when, in the judgment of the physician or audiologist:

(1) A standard threshold shift revealed by the audiogram is permanent; or (2) The hearing threshold shown in the annual audiogram indicates significant improvement over the baseline audiogram.

6. If a citation is issued for violation of 30 CFR 62.130 and miners refuse to submit to an audiometric testing request by the operator what happens?

Answer: 30 CFR 62.170(a) states in part that, "The mine operator must offer miners the opportunity for audiometric testing". Therefore, the mine operator must offer audiometric testing, but submitting to such testing is voluntary on the part of the miner. If the miner declines the testing there is no record for the operator to keep. MSHA suggests that the mine operator keep a record of "offer and decline" to avoid controversy during inspection. In addition, the operator must maintain compliance with all other provisions of Part 62. (See Question 3) MSHA has no authority over the operator's terms or conditions of employment. For this reason, Part 62 does not address this matter (conditions of employment).

7. Is hearing protection mandatory for miners refusing to take an audiogram?

Answer: If those miners are exposed to noise exceeding the permissible exposure level the use of hearing protection is required to comply with Part 62. In addition, a mine operator must ensure that a miner wears hearing protection when the miner's noise exposure is at or above the action level, if :1) the miner has incurred a standard threshold shift; or 2) more than six months will pass before the miner can take a baseline audiogram.

30 CFR 62.160(b) states "The mine operator must ensure, after satisfying the requirements of paragraph (a) of this section, that a miner wears a hearing protector whenever the miner's noise exposure exceeds the permissible exposure level before the implementation of engineering and administrative controls, or if the miner's noise exposure continues to

exceed the permissible exposure level despite the use of all feasible engineering and administrative controls.”

In addition, 30 CFR 62.160(c) states, “The mine operator must ensure after satisfying the requirements of paragraph (a) of this section, that a miner wears a hearing protector when the miner’s noise exposure is at or above the action level, if:

- (1) The miner has incurred a standard threshold shift; or*
- (2) More than 6 months will pass before the miner can take a baseline audiogram.*

Program Policy Letter No. P04-IV-1; P04-V-1;

8. If a miner does not participate in audiometric testing, does he or she have to wear hearing protection if his or her exposure is between 85 dBA and 90 dBA?

No. In this circumstance it would not be possible to determine if the person had a standard threshold shift. However, if the operator became aware that the individual had a standard threshold shift, for example, a letter from the miner's personal doctor, the miner must wear hearing protection.”

8. A citation is issued due to the failure of using all feasible engineering and administrative noise controls to reduce the miner’s noise exposure to the permissible exposure level (PEL). If follow-up noise surveys document that controls implemented to abate the citation do not reduce the miner’s noise dose by a significant amount (3dBA) or to or below the PEL will the citation be vacated?

Answer: Consistent with Commission case law, MSHA considers three factors in determining whether engineering controls are feasible at a particular mine: (1) The nature and extent of the overexposure; (2) the demonstrated effectiveness of available technology; (3) whether the committed resources are wholly out of proportion to the expected results...According to the Commission, an engineering control may be feasible even though it fails to reduce exposure to the permissible exposure levels contained in the standard, as long as there is a significant reduction in a miner’s exposure. (Todiito Exploration and Development Corporation v. Secretary of Labor, 5 FMSHRC 1894, 1897 (1983)) If a control or a combination of controls achieves a 3 dBA reduction MSHA considers the reduction to be significant. (Reference Federal Register / Vol. 64, No. 176 on page 49576)

Before MSHA vacates a citation for noise overexposure all exposure circumstances will be evaluated.

9. During noise sampling will dosimeters continue to measure (remain on) during lunch periods?

Answer: The Coal Mine Health Inspection Procedures Handbook, Chapter 3, Noise III.E.2 (as well as the Metal/Nonmetal Health Inspection Procedures Handbook for Noise) states “The personal noise dosimeter must be worn by the miner whose noise exposure is being measured for an entire normal work shift”. If lunch periods are a normal part of the miner’s shift the dosimeter must continue to remain on. (see Question 2)

10. Who initiates the P-code process including technical documentation and evaluation of eligibility of assignment? Can a mine operator apply for a P-code? Does any provision of Part 62 prevent a mine operator from requesting or applying for a P-code?

Answer: The Coal Mine Health Inspection Procedures Handbook, Chapter 3, Noise III.N.1. explains what a P-code is. “MSHA uses the letter “P” as an action code in its database to designate that an overexposure condition remains even though all feasible engineering and administrative controls are in place.” The overexposure condition must be determined by a MSHA sample.

The Federal Register / Vol. 64, No. 176 on page 49577 indicates that the District Manager will initiate the discussion of the issue of P-code appropriateness. Although, the standards in Part 62 do not address P-codes, the relationship of the standard to this administrative tracking device is found at 30 CFR 62.130(b). The rule requires mine operators to continue using all feasible controls to reduce the miner’s noise exposure to as low a level as is feasible even if the miner’s noise exposure continues to exceed the PEL. The “P-code is an administrative device that allows MSHA to track these special overexposure situations.” No “application” is involved in this process.

11. If a P-code is assigned will there be follow-up on subsequent inspections?

Answer: Yes, the Coal Mine Health Inspections Procedures Handbook, Chapter 3, Noise III.N.2. state “District offices will assure that periodic review of the P-code determines that the minimum acceptable engineering and administrative controls and conditions specified are being followed.” This review will include verification that all the conditions specified in the assignment are being maintained and dates specified are met, such as expiration dates for complete review.

12. If an inspector sample is below the PEL dose of 132% during an abnormal production shift will an assigned P-code be rescinded?

Answer: No, if abnormal or unusual conditions arise during the sampling period then the sample may have to be voided. Re-sampling must be conducted as soon as possible. (Coal Mine Health Inspection Procedures Handbook, Chapter 3, Noise III.N.2. and III.E.2.) Production is one element of the determination of a “Normal” workshift.

13. The Federal Register / Vol. 64, No. 176 / Monday, September 13, 1999 / Rules and Regulations page 49577 states, "The Agency is cognizant that there may be instances where all feasible engineering and administrative controls have been used and a miner's noise exposure cannot be reduced to the permissible exposure level. Under those circumstances, in both the coal and metal and nonmetal sectors, MSHA intends to enforce the final rule consistent with its current p code policy for metal and nonmetal mines." Does this mean that a P-code assignment will only be made after a citation has been issued?

Answer: No, according to the (Coal Mine Health Inspection Procedures Handbook, Chapter 3, Noise III.N) there are two scenarios involving a miner's overexposure to noise where the use of a P-code would be appropriate: a.) No Citation Issued and b.) Citation Issued.

14. Will there be a publicly accessible database of P-codes that have been issued? (Like petitions of modification) If not, why not?

Answer: The Coal Mine Health Inspection Procedures Handbook, Chapter 3, Noise III.N.1. defines P-code; "MSHA uses the letter "P" as an action code in its database to designate that an overexposure condition remains even though all feasible engineering and administrative controls are in place." MSHA is not at liberty to share with the public much of the information in the technical documentation.

15. If all miners at a mine are enrolled in a Hearing Conservation Program, is MSHA's periodic compliance sampling sufficient to meet the "system of monitoring" required under Part 62?

Answer: As indicated in the preamble to the rule a mine operator COULD use results of MSHA sampling, equipment manufacturer information, or information from insurance carriers as a part of their system of monitoring.

Program Policy Letter No. P04-IV-1; P04-V-1:

"9. If I voluntarily establish a hearing conservation program and enroll all miners at my mine, will I have to monitor for noise exposure at the action level?

If you can determine that a miner's noise exposure is at or above the action level without monitoring and you notify the miner according to the requirements of 62.110, then specific sampling for action level noise exposure is not necessary. However, notifying the affected miners that their exposures are at or above the action level is still required.

(5. answer) The standard requires that you establish a system of monitoring that evaluates each miner's noise exposure sufficiently to determine continuing compliance with all aspects of the standard. This means that whatever system you establish, it must keep you aware of when a miner is overexposed to sound levels, whether your

exposure determinations are based on information from the manufacturer, sampling conducted by an insurance carrier, or by MSHA.”

16. When fulfilling the requirements of training under 30 CFR 62.180(a)(5) how much detail does MSHA recommend to adequately cover “The general requirements of this part;”?

Answer: Federal Register / Vol. 64, No. 176 on page 49624 and 49625 addresses this question in part. “The final rule does not provide detailed requirements for the training provided by the mine operator...The final rule requires that certain topics be covered by this training, but does not specify how long the training must last nor what qualifications the training instructors must have...MSHA recommends that mine operators tailor the training provided under the final rule to the operations at their mines...Effective training of miners serves to enlist miner participation in hearing conservation.”

If the videotape “Hearing Conservation, MSHA Part 62” (Available from the National Mine Health & Safety Academy) is used during the training the requirements of 62.180 will be adequately covered.

17. Will the inspector database on controls, cost and expected benefit, be available to mine operators? When?

Answer: The database is being developed and will be made available as soon as possible.

18. Why is the coal noise sampling results from the database not available to mine operators like the dust data?

Answer: That information sharing tool has not been developed. MSHA is exploring this tool and what is necessary to create it.

19. Will doseBusters USA, Exposure Smart Protector (ESP) technology be allowed? When will a decision be made?

Answer: Under the rule hearing protection is an integral part of a mine’s hearing conservation program. Reference 30 CFR 62.110(b) (2) & 62.150(b).

20. Is an inspector noise sample voided if the sample is less than 480 minutes? If not, can a citation be issued?

Answer: The sample will not be voided if the miner's normal workshift is less than 480 minutes. If less than 480 minutes is a normal workshift and the sample is at or above the action level and not voided by the inspector a citation can be issued if non-compliance is documented.

If the workshift or conditions are determined to be abnormal or unusual, then the sample may have to be voided. Re-sampling must be conducted

as soon as possible. (Coal Mine Health Inspection Procedures Handbook, Chapter 3, Noise III.N.2)

21. What is the effect of the new HIPAA legislation with respect to release of audiograms to MSHA?

Answer: 30 CFR 62.190(a) states “The authorized representatives of the Secretaries of Labor and Health and Human Services must have access to all records required under this part.” The HIPAA regulations permit employers to disclose protected health information to MSHA in order to comply with the Mine Act and MSHA regulations.

22. Will MSHA inspectors consider unusual circumstances when evaluating miner noise overexposure samples? Can the inspector resample?

Answer: Yes (see Question 20)

23. Is a noise control deemed infeasible if it creates a hazard?

Answer: As part of its feasibility determination, MSHA considers any potential hazard that a control may create. (Reference: Program Policy Letter No. P04-IV-1; P04-V-1;)

“3(b). Does the phrase “the demonstrated effectiveness of available technology” mean anything more than that a control or combination of controls must achieve at least a 3 dBA noise reduction in order to be deemed technologically feasible?

The phrase means that a single engineering control or a combination of controls which is likely to achieve at least a 3 dBA reduction in a miner's noise exposure is technologically feasible. In addition, a control or combination of controls that brings noise exposure down to compliance levels, but does not achieve a 3 dBA reduction, may also be considered feasible. MSHA will, however, consider any adverse effects that the controls may have on the health and safety of the miner.”

24. Does the rule preclude a mine operator from enrolling all miners at a mine or complex into the mine's hearing conservation program?

Answer: No

25. Why would a mine operator enroll all miners at a mine or complex into the mine's hearing conservation program?

Answer: A mine operator could enroll all miners at a mine or complex into the mine's HCP for greater flexibility of the workforce or to promote hearing conservation without regard to their occupational exposure.

26. If all miners at a mine or complex are enrolled into the mine's hearing conservation program what must be done for those miners in order to be compliant with the provisions of Part 62?

Answer: All provisions of 30 CFR 62.150 must be implemented for each miner whose noise dose is at or above the action level.

27. Will feasibility of noise controls be evaluated the same for each operator, no matter the size?

Answer: Yes

28. How does MSHA determine if there are single or multiple noise sources in the evaluation of whether the mine operator has used all feasible controls, if a citation must be issued?

Answer: Noise sources for the miners being sampled, controls used to reduce miners exposures, and how controls are being implemented / maintained are all required elements of documentation for a noise inspection. (Reference: Coal Mine Health Inspection Procedures Handbook, Chapter 3, Noise III.F.1.) Those documented controls are at a minimum compared to the controls found in Program Information Bulletin 04-18. A feasibility determination must be made by the inspector in accordance with the (Coal Mine Health Inspection Procedures Handbook, Chapter 3, Noise III.K) prior to issuing a citation for the lack of controls.

29. Is there an inspector checklist for the inspection and verification of operator compliance with the noise standard?

Answer: No, verification of operator compliance with the noise standard is guided by the Coal Mine Health Inspection Procedures Handbook, Chapter 3, Noise

30. My current administrative noise control limits the dragline oiler(s) in the time they can spend in the back of the dragline. This control reduces the miner's exposure to below the permissible exposure level (PEL) but does not allow enough time for housekeeping and maintenance. What are the consequences of increasing the time allowed in the back of the dragline if this increase causes the noise dose to exceed the PEL?

Answer: If the circumstances of a miner's noise exposure have changed the controls being used can be re- evaluated for feasibility. In accordance with 30 CFR 62.130(a) any changes in administrative noise controls would require copies to be posted to the mine bulletin board and given to all affected miners. During an inspection a determination of feasibility shall be conducted. (Reference: Coal Mine Health Inspection Procedures Handbook, Chapter 3, Noise III.K.)

31. What is gained by the assignment of a P-code? What is the benefit to the mine operator?

Answer: A P-code is an administrative device that allows MSHA to track these special overexposure situations. (Reference: Coal Mine Health Inspection Procedures Handbook, Chapter 3, Noise III.N.1.) As explained in the Federal Register / Vol. 64, No. 176 on page 49577 a copy of the associated technical documentation package is forwarded to NIOSH to alert researchers. Therefore, the benefit is MSHA tracking these overexposure situations and alerting researchers for the development of new technology.

32. Can a piece of equipment continue to be used during the abatement period of a citation issued for the violation of 30 CFR 62.130?

Answer: Yes

33. An MSHA noise sample documents that a miner that is air-arc welding/cutting is overexposed to noise (>132%). Will the mine operator be obligated to demonstrate that different air pressures, currents, voltages, rods, etc. has been used in an attempt to reduce the noise exposure, exhausting all feasible controls?

Answer: During an inspection a determination of feasibility shall be conducted. (Reference: Coal Mine Health Inspection Procedures Handbook, Chapter 3, Noise III.K.) Any information provided by the mine operator to the MSHA inspector will be used in the process of determining feasibility.

34. If an effective noise enclosure or barrier causes overheating to the equipment operator, machinery, or both, how is the overheating addressed under Part 62?

Answer: Program Policy Letter No. P04-IV-1; P04-V-1;

*3(b) states in part "MSHA will, however, consider any adverse effects that the controls may have on the health and safety of the miner."
Consideration should be given to the control of heat as well as noise. If the control of heating or other problems adds to the overall costs of a control implementation, it will be factored into the feasibility determination. A control is not feasible if it creates an adverse affect to the health or safety of the miner.*

35. Is economic feasibility or achievability determined by a percentage of pre-tax profits?

Answer: No

The consideration of whether the cost of the controls would be wholly out of proportion to the reduction in noise exposure expected by their implementation is used to determine feasibility. (Reference: Coal Mine Health Inspection Procedures Handbook, Chapter 3, Noise III.K.)

36. Several administrative noise controls presented during the workshop are actually operational parameters. As an example: If not working near a fan is an administrative control then, any work near a fan would be contrary to the control. Explain how exposure would be limited by operational means, not as a documented and posted administrative noise control.

Answer: An administrative noise control would not be considered a control if it is not measurable. Consider: "Not working near a fan v. Any miner working around an operating auxiliary ventilation fan motor is limited to one (1) hour per shift within 20 feet of it." The first is not measurable and could not be evaluated whether it is being maintained or implemented. Operational parameters are not considered under Part 62 administrative controls are. Federal Register / Vol. 64, No. 176 on page 49597 explains the mechanism of administrative noise controls. "Administrative controls reduce exposure by limiting the amount of time that a miner is exposed to noise through such actions as rotation of miners to areas with lower sound levels, rescheduling of tasks, and modifying work activities." Eliminating activity can be measured but undefined terminology such as "near or as much as possible" cannot.

37. Will MSHA require environmental cabs to be installed on equipment if the cabs cost more than the value of the equipment?

Answer: The value of a piece of equipment is not a consideration in determining economic feasibility. The consideration of whether the cost of the controls would be wholly out of proportion to the reduction in noise exposure expected by their implementation is used to determine feasibility. (Reference: Coal Mine Health Inspection Procedures Handbook, Chapter 3, Noise III.K.) Feasibility dictates whether MSHA will require the cabs.

38. If it is a personal noise exposure determination, why is a citation issued on a specific piece of equipment especially if the miner that was sampled operated multiple pieces of equipment during the shift?

Answer: Citations issued to or on a specific piece of equipment are incorrect and need modification. (Reference: Coal Mine Health Inspection Procedures Handbook, Chapter 3, Noise III.L.4.)

39. A longwall headgate operator is overexposed (MSHA sample > 132%). It is determined the overexposure is comprised of multiple noise sources: face conveyor, stage loader and conveyor, and caving behind the shields. Will a P-code be assigned or issued for that occupation?

Answer: See the Answer to Question 10. Without the full technical documentation package it is impossible to determine the appropriateness of a P-code.

40. Why has MSHA issued or assigned so few P-codes?

Answer: All technical documentation packages submitted in accordance with the policy outlined in Coal Mine Health Inspection Procedures Handbook, Chapter 3, Noise III.N. have been reviewed. Also see Federal Register / Vol. 64, No. 176 on page 49577

41. All of the presenters used the term “Rational”. I don’t see the word in any of the material issued. Will MSHA PLEASE define the term and put it in writing?

*Answer: (Reference: Federal Register / Vol. 64, No. 176 on page 49549)
“MSHA must assess whether the costs of the control are disproportionate to the “expected benefits”, and whether the costs are so great that it is **irrational** to require its use to achieve those results.” (Also see Secretary of Labor v. Callanan Industries, Inc., 5 FMSHRC 1900 (1983))*

42. Will enforcement actions be taken only in conjunction with MSHA samples? What about operator samples?

Answer: Enforcement action will only be taken based upon MSHA samples.

43. What is a P-code review and what does it consist of? After a P-code has been issued or assigned what happens?

Answer: A P-code review is the evaluation of the circumstances surrounding a miner’s overexposure where it is believed that all feasible controls are being used and all other provisions of Part 62 to protect the miner are being complied with. (see Question 10)

“If either scenario exists, P-code documentation must be developed in accordance with the P-code Documentation Checklist (See Appendix 3). Documentation will be coordinated with the field office, district office, technical support and headquarters. Information will be obtained from the operator if it is needed.

*This information will then be referred to the District Manager (DM) for a recommendation. If the DM believes a P-code is warranted, the DM reviews the situation in consultation with field enforcement staff, headquarters’ officials, and MSHA technical experts. **This review includes an evaluation of the circumstances surrounding the overexposure, with particular emphasis on assessing the feasibility and effectiveness of control options.***

District offices will assure that periodic review of the P-code determines that the minimum acceptable engineering and administrative controls and conditions specified are being followed.” (Coal Mine Health Inspection Procedures Handbook, Chapter 3, Noise III.N.)

44. After all feasible noise controls have been used to reduce the miner's noise dose to as low as is feasible has MSHA recognized hearing protectors as a prudent means of miner protection?

Answer: (Reference: Federal Register / Vol. 64, No. 176 on page 49550)

"MSHA recognizes that in some environments it may not be feasible to reduce miners' noise exposure to the permissible exposure level with the use of engineering or administrative controls. In these circumstances, the interim use of personal hearing protectors may offer the best protection until controls become feasible and can be implemented."

In accordance with 30 CFR 62.130(a) when a miner's noise exposure exceeds the PEL, in addition to using all feasible controls the operator must enroll the miner in a hearing conservation program that complies with 62.150. This includes the provision and use of hearing protectors.

45. What is the maximum allowable dose for a 10 hour shift? 12hours?

Answer: The permissible exposure level is defined as: "A TWA_8 of 90 dBA or equivalently a dose of 100% of that permitted by the standard, integrating all sound levels from 90 dBA to at least 140 dBA... A miner's noise dose determination must...Reflect the miner's full work shift." (30 CFR 62.101 and 62.110(b) (2) (iii))

(Also see 30 CFR Part 62; Appendix to Part 62, Tables 62-1 and 62-2). The permissible dose is 100% of that permitted by the standard regardless of the duration of the miner's full shift.

46. When the new style conveyor flight (coated flight chain conveyor) has been proven to reduce noise, when will MSHA require it to be used? How long will MSHA give mine operator's to implement these newly proven noise controls? 1 month? 1 year?

Answer: Currently, it is a "promising" noise control. If it is validated (via field evaluations) and documented as a "technologically achievable" noise control (PIB 04-18) MSHA will consider its implementation as part of using all engineering controls. If the conveyor/chain is a contributing noise source and found feasible, the control should be implemented no later than when the chain is replaced. (One manufacturer indicated this is approximately 6 months assuming the machine is in service)

47. Who will make the economic evaluation on an engineering noise control?

Answer: The inspector must conduct a feasibility determination in accordance with the provisions of (Coal Mine Health Inspection Procedures Handbook, Chapter 3, Noise III.K.). This includes a reasoned estimate of the cost of the control under consideration. As with any citation or order, any information provided by the mine operator during the "thorough discussion" will be considered by the mine inspector. (Reference: MSHA Handbook Series; Citation and Order Writing Handbook for Coal Mines and

Metal and Nonmetal Mines; Chapter 7.II.) In addition, MSHA inspectors are encouraged to consult their supervisor or district manager if he or she has questions or concerns about the feasibility of any control.

48. If a company has a fleet of 11 draglines will MSHA require that all feasible engineering and administrative noise controls be implemented on all 11 at once (short time period)? Will the expense of doing all the fleet at once factor into the economic feasibility of controls?

Answer: Compliance and feasibility are determined on a case-by-case basis. MSHA intends to give operators a reasonable amount of time to put controls on equipment. In some cases this may require a prolonged period of time, while in other instances it may not. Coal Mine Health Inspection Procedures Handbook, Chapter 3, Noise

49. Explain the difference between 100% dose and 90dBA?

Answer: Dose is a measurement of exposure (TIME + SOUND LEVEL) while dBA is a measurement of the level of environmental contaminant (SOUND LEVEL). How long a miner is exposed at a level will determine the dose received. The permissible exposure level under the standard is an Eight Hour Time Weighted Average (TWA₈) of 90 dBA. Example: If a bucket represents the PEL the time it would take to fill the bucket is dependant upon how much is flowing into it. If the flow is 90 dBA the bucket will fill in 8 hours (represent 100% dose).

50. What consideration is given to hearing protectors in MSHA's determination of dose?

Answer: None (30 CFR 62.110(b)(2)(iii))

51. What can mine operators do for miners with noise exposures outside of work?

Answer: The standard does not address noise outside the occupational setting. MSHA encourages the use of hearing conservation programs and practices in helping miners to understand and prevent noise induced hearing loss.

52. Why can OSHA cite for not using mandated hearing protectors? Why don't individuals get penalized for ignoring wearing hearing protectors when they are required under the rule?

Answer: It is the responsibility of the mine operator to ensure the use of operator provided hearing protection when the miner's exposure exceeds the PEL. MSHA will cite the mine operator for not using mandated hearing protection. A citation, if warranted, will be issued and then documented in the condition or practice section as a deficiency in the hearing conservation program.

<p>§ 62.130</p>	<p>Miner's exposure exceeds the PEL</p>	<p>Operator uses/continues to use all feasible engineering and administrative controls to reduce exposure to PEL; enrolls the miner in a HCP including ensured use of operator-provided hearing protectors; posts administrative controls and provides copy to affected miner; must never permit a miner to be exposed to sound levels exceeding 115 dBA.</p>
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Table provided in 30 CFR Part 62 between 62.140 and 62.150

53. How can a mine operator get involved in the P-code technical documentation process and evaluation?

Answer: In complying with the provisions of 30 CFR 62.130(a) and (b) if the mine operator has documentation that all feasible controls are being used, this documentation can and should be communicated to the inspector during the inspection.

The (Coal Mine Health Inspection Procedures Handbook, Chapter 3, Noise III.N.1.) states in part; "Information will be obtained from the mine operator if it is needed."

54. What consideration is given to increased dose due to exposure to radio noise (volume being turned up due to a miner wearing hearing protectors)?

Answer: As defined in 30 CFR 62.101 the Action Level and Permissible Exposure Level noise exposure assessment must be conducted: "...integrating all sound levels from 80 dBA to at least 130 dBA... 90 dBA to at least 140 dBA" respectively. (30 CFR 62.101 and 62.110(b)(2)) state "A miner's noise dose determination must: Be made without adjustment for the use of any hearing protector; Integrate all sound levels over the appropriate range; Reflect the miner's full work shift."

Radio noise is considered a part of the miner's noise dose under the standard if it is 80 dBA or greater.