

From: Stephen A. Sanders [mailto:steve@appalachianlawcenter.org]
Sent: Friday, January 05, 2018 11:35 AM
To: McConnell, Sheila A - MSHA
Subject: RE: Final Dust Rule - Retrospective Language RIN 1219-AB88

I tried to comment via the website you directed me to use. I tried to email to zzMSHA-OSRVRegulatoryReform@dol.gov I received a message that the email failed. Here is my comment:

The Mine Safety and Health Administration (MSHA) published a notice in the Federal Register that it wants public comments on the Respirable Coal Mine Dust Rule. (Regulatory Reform of Existing Standards and Regulations; Retrospective Study of Respirable Coal Mine Dust Rule.

<https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201710&RIN=1219-AB88>).

Black lung is a lung disease caused by breathing coal mine dust. The coal and rock dust scars the fine tissue of the lungs, making the tissue less flexible, and it causes emphysema and other obstructive lung diseases. As a result, the ability to inhale and exhale freely becomes impaired as does the transfer of oxygen. Over time, black lung cripples miners as they become unable to walk short distances or climb a flight of stairs due to severe shortness of breath. There is no cure for this disease.

Congress made eliminating black lung a national goal in 1969 by passing legislation intended to end black lung, but between 1968 and 2014, more than 76,000 coal miners nationwide died from the disease. Recent data from the NIOSH-administered Coal Workers' Health Surveillance Program shows that the rate of black lung among coal miners with at least 25 years underground in West Virginia, Kentucky, and Virginia is higher than ever before. Based on current data, about 1 in 20 of these coal miners will now get severe black lung while the earliest data (from 1970) only showed that about 1 in 30 would. https://www.cdc.gov/mmwr/volumes/65/wr/mm6549a1.htm?s_cid=mm6549a1_w

The Coal Mine Dust Rule under review was proposed by MSHA in 2009. The Rule was based on recommendations from the National Institute for Occupational Safety and Health (NIOSH) published in 1995 which recommended reduction in permissible exposure limits as a means of reducing black lung. The final rule was adopted in 2015, after MSHA held public hearings and reviewed lengthy comments. <https://arlweb.msha.gov/regs/fedreg/final/2014finl/2014-09084.asp>

The rule survived a court challenge by the National Mining Association and Murray Energy. On August 1, 2016, Phase III of MSHA's respirable dust rule went into effect. Phase III reduced the concentration limits for respirable coal mine dust from 2.0 milligrams of dust per cubic meter of air (mg/m³) to 1.5 mg/m³ at underground and surface coal mines.

Modern underground mining is done with high speed mechanized equipment which grinds the coal and rock from the coal seam, and which creates fine minute dust which floats in the air. Methods to protect miners from dust exposure include reduction in respirable dust through the use of proper ventilation to take the dust away from the miners and the use of water sprays to dampen dust as the coal is mined.

I regularly represent miners who have black lung disease and are trying to win federal black lung benefits. I am familiar with the abuses of these protective measures told to me repeatedly by my clients in these black lung benefits cases. Too many times the interest of mining more coal takes priority over properly hanging ventilation curtains and repairing damaged or clogged water lines. Without proper enforcement of dust limits, it is not surprising that there is a surge in severe black lung. The dust limits should have been reduced earlier and effective enforcement is needed. Black lung is preventable and it should be eliminated.

The NIOSH data reaffirms the need for safer working conditions for coal miners. MSHA should strengthen the protection of miners by reducing their exposure to respirable coal mine dust.

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