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January 17, 2018

Gentlemen

This comment regards CFR 70.208. This regulation should be revised as follows: 1) High frequency sampling is redundant. The number of consecutive valid representative samples should be reduced from 15 to 5. 2) Simultaneous sampling of Designated Occupations (DO) and Other Designated Occupations (ODO) should be allowed on the same consecutive normal production shifts and 3) MSHA and the operator conduct sampling using the same CPDM device and procedures with simultaneous MSHA/operator sampling allowed.

The intent of respirable dust sampling is to monitor the dust concentrations that the miners are exposed to. If monitoring reveals noncompliance then corrective action is taken. Monitoring and corrective action continues until compliance is attained. Past sampling required 5 samples bi-monthly. By comparison the requirement for 15 consecutive normal production shifts per quarter is twice the past frequency.

For example at this operation, mine records show that during 2017 a total of 578 samples were taken resulting in 440 valid samples. MSHA records for 2017 show that there is not one noncompliance operator sample during 2017. Sampling at this high frequency requires 22 CPDM units as well as additional staff to conduct sampling. High frequency sampling of compliant operators is redundant and is punitive.

The requirement that only one DO and ODO can be sampled per MMU shift contributes to high frequency sampling, extending the number of sample shifts. High frequency sampling is not a corrective action for controlling respirable dust. There is no evidence that high frequency sampling lowers exposure of miners to hazards related to respirable dust.

Sampling of respirable dust by operators and MSHA need to be consistent. At minimum, the same type of monitoring equipment needs to be used by both parties. At present MSHA uses different sampling equipment than operators. Procedures for monitoring need to be agreed upon and implemented by both parties.

Sincerely,



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