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5-8-03

2003 JUN -2 PM 4: 04

To MSHA:

I am writing you in response to your public hearing on (**Verification of Underground Coal Operators' Dust Control Plans and Compliance Sampling for Respirable Dust and Determination of Concentration of Respirable Coal Mine Dust - Dust Rules**).  
MSHA  
U.S. Dept of Labor

I am stating for the record my strong objections to the proposed changes to the Dust Rules. The Federal Mine Safety and Health Act of **1969**, as amended in **1977**, which was established by the U.S. Congress, clearly stated its purpose was to protect miners not put additional risks and hazards on or around them in their workplace. With these proposed rule changes: MSHA is in direct violation of the Congressional mandate they were created to protect-therefore MSHA is in direct violation of the law.

Broad changes in the writing and application of the rule, as is proposed will eliminate protections miners currently have and place the Agency in a position contrary to their Congressional mandate. Section 101(c) (9) of the Federal Mine Safety and Health Act of **1977** states, "No mandatory health or safety standard promulgated under this title shall reduce the protection afforded miners by an existing mandatory health or safety standards." Congress strictly forbid the Agency from enacting any rule that would offer lesser protection than miners currently enjoy.

How in the world can anyone with common sense say that the new proposal is good for miners. Instead of decreasing dust levels in mines, this proposal allows average dust concentrations in the mine atmosphere to be increased up to four times the current 2.0 mg/m<sup>3</sup> permitted by law-allowing dust levels up to 8mg/m<sup>3</sup> in the active workings of the mine. This is a blatant violation of the Mine Act.

There is highly disturbing evidence that MSHA's proposed Dust Rules turned a deaf ear to the extensive record of information. During the public hearing on Dust Rules in 2000 and the **1996** Federal Advisory Committee appointed by the Secretary of Labor to develop recommendations on the "Elimination of Pneumoconiosis among Coal Workers" were outright ignored by MSHA. Also ignored was NIOSH'S 1995 "Criteria For a Recommended Standard".

MSHA portrays the proposed Dust Rules as a government takeover of respirable dust compliance sampling program-it is not ! It simply eliminates mine operator compliance sampling. It reduces up to 50% from the 2000 proposal on sampling. Also the mine operator-not MSHA-will verify its own dust control plan. MSHA estimates 85% of the mine sections will be exempt from follow up quarterly sampling. Compliance dust sampling on mining sections will be cut 90% . Instead of 34 shifts sampled a year-there could be as little as 3 sampled in a year.

These would only be by policy not regulation. We all know that policy can be changed on a whim by whom ever is in charge and can't be regulated by the law of the land. Where is the accountability and dependability of this system.

**AB14-COMM-101**   
**AB18-COMM-101**

The MSHA proposals would allow mine operators to require miners to wear respirators (air stream helmets called PAPRS ) while increasing dust levels in the mines. Thus since PAPRS have been found to be faulty, this would only increase miners hazzards which are already too many.

Since MSHA appears to be headed in the direction of beauraratic takeover and no longer working for the miners, we must ask MSHA – which side are you on? The working man or beauracratic?

What we need is the true concept of the Coal Act to become a reality .Let's lower the level of dust in the mines, have continuous sampling ,full accountability and dependability. Let's stop trying to use respirators to replace environmental controls to control coal mind dust .The pertinent language of Section 202 (b) (2) of the Coal Act clearly states," Each operator shall continuously maintain the average concentration of respirable dust in the mine atmosphere during each shift to which each miner in the active workings of such mine is exposed at or below 2.0 mg of respirable dust per cubic meter of air". Stop and think –2.0 or **8.0**, which would you want to breathe?

I have been working in a UMWA coal mine since March **1976** .I have seen many changes for the better in the advancement of coal mine dust exposure during my tenure. Let's not go back to the stone age era of coal mine dust exposure of dust limits by listening to a few beauracrates with a different agenda in mind. MSHA needs to stay the course of helping miners not giving political favors .Stay the course of going forward - open your ears, open your eyes and your heart- no backward steps in safety.

In summation ,these proposed changes are in direct violation of the **1969** Coal Act as amended in **1977** and mandated by US Congress. Therefore these proposed changes are in violation of US law. I strongly oppose these changes and again I ask MSHA – which side are you on??

Sincerely

UMWA Coal Miner

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