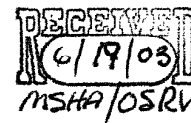


VIRGINIA BLACK LUNG ASSOCIATION
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June 17, 2003



MSHA
Office of Standards, Regulations and Variances
1100 Wilson Blvd., Rm. 2313
Arlington, Virginia 22209-3939

COMMENTS RE: MSHA RESPIRABLE DUST RULES PROPOSAL

My name is Calvin Dunford and I was a coal miner for thirty-five years, all of it in underground coal mines. When I started working in the mines in the 1940's, we did not have the mining technology that we have now, especially the long-wall mining. There was no 1969 Mine Safety and Health Act, and you did not "raise a lot of dust with a pick 'n shovel! **But, now, with production at an all time high due to modern technology and equipment, we are churning out mega coal and silica dust on a daily basis!**

The 1969 Mine Safety and Health Act was instrumental in cleaning up the mines and maintaining safer conditions in the mines. However, in the early 1990's the cover on the employer's habitual practice of obtaining and submitting fraudulent dust sampling was removed and the public became aware of something that coal miners had known from the beginning – the dust samples that were submitted were often misleading and frequently falsified! Over 160 companies and/or individuals were criminally prosecuted for fraudulent dust sampling aimed at concealing the high dust levels miners were being exposed to daily.

In 1996, the Federal Advisory Committee was appointed by the Secretary of Labor to develop recommended actions on the elimination of pneumoconiosis **among** coal miners. Those concerns included MSHA "taking over" the mine operator-controlled compliance dust sampling program, increase the number of shifts on which dust sampling is conducted, operate the dust samplers the full shift, have MSHA verify the dust control plan at the mines **to make sure that** the plan would control the dust, lower the 2.0 mg/m³ respirable dust levels, increase the sampling of the dust in the areas in the out-by, and require continuous monitoring of the dust levels.

But, these 2003 Proposed Rules not only fail to bring about the above-listed necessary action, unfortunately, they will reverse many improvements currently in place. We have been told that the new rule eliminates mine operator compliance sampling; furthermore, compliance sampling will be reduced by as much as **90%** with **substantial** increases in unhealthy respirable dust concentrations by as much as four times the current dust levels. **At the maximum, dust levels would have to go well over 9 mg before MSHA would issue a citation.**

Moreover, instead of MSHA verifying the mine operator's dust control plan, the new rule allows the mine operator to verify their own plan -- **we call this letting the fox guard the hen house!** There will not be full shift compliance sampling, and in some mines, the rest of the mines will be sampled only one shift a year. **And, what about the mandatory requirement for continuous dust sampling -- it's not in there!**

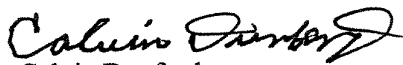
With the higher levels of dust permitted as recommended by the proposed rules, we may very well see an increased danger of mine fires and explosions. This year alone, three fires have broken out at three long wall mines owned by Consol Energy.

Along with countless other miners, I remember well the days of dust so thick one could not see his buddy working along side of him. Furthermore, if I were still working in the mines today, I would not be willing to go back to those working conditions again. Moreover, I am not willing to sit by and allow today's coal miner to labor under those horrible conditions without lifting my voice in condemnation of such inhumane working conditions.

I am the Chairman of the Virginia Black Lung Association and daily our office staff is assisting someone in his or her pursuit of federal black lung benefits. In the past few years, we have talked with and assisted several miners in their forties and fifties that have been diagnosed with complicated black lung. **Now, imagine this same scenario in the next few years, and look at how young and disabling the miners will be if MSHA goes ahead with these proposed rules!**

Clearly, these proposed rules ignore the 1969 and 1977 Mine Act, the 1996 Federal Advisory Committee Report on recommended actions for the elimination of pneumoconiosis among coal miners, NIOSH criteria, and ultimately, the health and long life of coal miners. There is just reason to reform the dust sampling program and get it right -- but not like this!

Sincerely,



Calvin Dunford,
VBLA Chairman