

June 27, 2003

2003 JUN 30 PM 4: 42

MSHA
U.S. Dept of Labor

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 Mack Whited and I have been a coal miner for twenty-seven years, all of it in underground coal mines with the majority of the work performed as a roof-bolter and a roof-bolter helper. When I started working in the mines in 1977, we did not have the widespread use of today's mining technology, especially the long-wall mining; however, the Mine Safety and Health Act of 1969 was in effect and we had the respirable dust limit of 2 mg per cubic meter of air. **Nevertheless, with the present respirable dust limit of 2 mg per cubic meter of air I became a casualty of progressive massive fibrosis, more commonly referred to as "complicated coalworkers' pneumoconiosis". Furthermore, this past December, I underwent a double lung transplant because of the massive fibrosis of black lung!**

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 habitual practice of obtaining and submitting fraudulent dust sampling was revealed when over 160 companies and/or individuals were prosecuted for submitting fraudulent samples. Then, the public became aware of something that coal miners had known from the beginning – the sampling was not, (and even as I write today according to reports from miners, is still not), administered "properly" and the samples that were submitted back then were misleading and frequently falsified!

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, tragically, 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. Can this possibly be true that this is how MSHA is proposing to "enforce mine safety and health"?

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Moreover, instead of MSHA verifying the mine operator's dust control plan, the new rule allows the mine operators to verify their own plan. 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. In addition, what about the mandatory requirement for continuous dust sampling -- a control that would have prevented my contracting complicated black lung if it had been in place years ago; should not the life and quality of life of our coal miners be a compelling enough issue to make this requirement mandatory?

Those operators, officials, etc., that would complain that the cost of personal dust monitors is too expensive, need to consider the extremely high cost of a lung transalant for one miner which is in excess of tens of thousands of dollars. This money would supply many miners with a continuous dust monitor that could provide instantaneous readout of the dust levels in his/her workplace, continuously monitoring the mine atmosphere to protect the miner from unhealthy dust!

Furthermore, 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.

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!

Our miners, in their forties and fifties, are dying from complicated black lung, contracted working under the present rules – what will happen to the men working under these proposed rules?

Sincerely, 

Mack Whited
P.O. Box 104
Rosedale, VA 24280

cc: Congressman Rick Boucher