



NIOSH

Comments to MSHA

COMMENTS OF THE
NATIONAL INSTITUTE FOR OCCUPATIONAL SAFETY AND HEALTH
ON THE
MINE SAFETY AND HEALTH ADMINISTRATION
NOTICE ON COAL MINE RESPIRABLE DUST STANDARD
NONCOMPLIANCE DETERMINATIONS

59 FR 8356

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
Public Health Service
Centers for Disease Control and Prevention
National Institute for Occupational Safety and Health

5/20/94

On February 18, 1994, the Mine Safety and Health Administration (MSHA) published in the *Federal Register* (FR) two notices dealing with respirable dust samples. In these notices, MSHA announced their intention to improve their enforcement of the coal mine dust standards by modifying the procedure used to classify inspector-collected measurements of respirable coal mine dust. One FR notice [FR 8357] is jointly signed by MSHA and the National Institute for Occupational Safety and Health (NIOSH) and states that a single shift sample can be used to determine the average concentration of respirable dust during the shift in which it is taken. In the other FR notice [FR 8356], MSHA announced its intention to use single full-shift respirable dust measurements (in addition to multiple full-shift samples) to determine noncompliance. That is, inspectors will continue to issue citations when the average of five measurements exceeds the respirable dust standard of 2 mg/m³. In addition, under the proposed changes, MSHA inspectors will issue citations based on less than five measurements when there is substantial evidence that the exposure exceeded the respirable dust standard. Substantial evidence will be presumed to exist when the calculated concentration from a single measurement, for example, exceeds a critical value of 2.33 mg/m³.

NIOSH commends MSHA for a proposal that will increase the protection of miners by reducing exposures to respirable coal mine dust in excess of the respirable dust standard. As stated in the letter of August 2, 1993 [NIOSH 1993], NIOSH continues to support MSHA in finding that a single full-shift sample will accurately represent atmospheric conditions (i.e., dust concentrations) during the work shift in which the sample is taken. Statistical methodologies which account for measurement uncertainty are a useful component of a mine operator's program to maintain exposures to respirable coal mine dust below the standard, as measured over a single shift. However, NIOSH continues to recommend, as stated in the August 2, 1993, letter [NIOSH 1993], that, in making determinations of noncompliance, MSHA shall not make any upward adjustment to the respirable dust standard of 2 mg/m³ to account for measurement uncertainty. By enforcing the respirable coal mine dust standard without any upward adjustment, MSHA will provide an equitable sampling program, given frequent sampling, in which the burden of measurement uncertainty is shared equally by miners and operators.

NIOSH supports MSHA in their effort to reduce miners' risk of developing occupational diseases. NIOSH welcomes the opportunity to further meet and discuss with MSHA alternative sampling and control strategies that will further reduce overexposures to respirable coal mine dust.

REFERENCES

NIOSH [1993]. Letter of August 2, 1993, from Richard A. Lemen, National Institute for Occupational Safety and Health, to Ronald J. Schell, Mine Safety and Health Administration, Department of Labor.

Enclosures and/or attachments that are not included are available free of charge from the NIOSH Docket Office (513/533-8450).



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