

MSHA's Coal Dust Rule Lowers Acceptable Concentrations and Requires Continuous Monitoring

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The Mine Safety and Health Administration (MSHA) has finalized significant changes to the rule governing total permissible coal dust concentrations and the methods for sampling dust concentrations in underground and surface coal mines.

Effective August 1, 2014, MSHA inspectors will use single, full-shift samples to determine noncompliance with the respirable dust standards. The rule also requires immediate operator corrective action on a single, full-shift operator sample that meets or exceeds the Excessive Concentration Value (ECV) for the applicable dust standard, changes the averaging method to determine compliance on operator samples, expands requirements for medical surveillance of coal miners, and strengthens the certification requirements for certified persons who perform dust sampling and who maintain and calibrate sampling equipment.

Furthermore, on February 1, 2016, mine operators are required to use continuous personal dust monitors (CPDM) to monitor the exposures of underground coal miners in occupations exposed to the highest respirable coal mine dust concentrations and the exposures of part 90 miners. Use of the CPDM will be optional for surface coal mines, nonproduction areas of underground coal mines, and for underground anthracite mines using the full box, open breast, or slant breast mining methods.

Finally, starting August 1, 2016, the concentration limits for respirable coal mine dust will be lowered from 2.0 milligrams of dust per cubic meter of air (mg/m^3) to 1.5 mg/m^3 at underground and surface coal mines, and from 1.0 mg/m^3 to 0.5 mg/m^3 for intake air at underground mines and for part 90 miners (coal miners who have evidence of the development of pneumoconiosis).

As part of its justification, the new rule states that "[l]owering the concentration of respirable coal mine dust in the air that miners breathe is the most effective means of preventing diseases caused by excessive exposure to such dust."

The National Mining Association filed a petition with the U.S. Court of Appeals for the Eleventh Circuit challenging the new rule and asking that MSHA postpone the implementation of the rule pending judicial review. The National Mining Association asserts that the required CPDM equipment will not be available until after the August 1, 2014 deadline and

that there will not be enough time for mine operators to implement changes in sampling methods, among other things.

Text of the entire rule may be found here. We will keep you posted on any further developments related to this MSHA rule.

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