

# New US coal dust standards leave thousands of miners at risk for black lung

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Late last month, the Obama administration unveiled new respirable dust standards for the United States' coal mines which will continue to expose thousands of miners to unsafe levels of coal and rock dust. The new guidelines reduce overall coal dust exposure limits from 2.0 to 1.5 milligrams per cubic meter of air and close certain loopholes in how sampling is performed and compliance is determined.

In reducing the allowable exposure to coal dust by only 25 percent, the Obama administration has not only intervened to deliberately loosen the 1.0-milligram limit proposed by the U.S. Mine Safety and Health Administration (MSHA). The administration is also rejecting longstanding recommendations by health officials, backed by numerous studies, arguing that the limits should be cut in half to 1.0 milligram.

Exposure to coal and rock dust is the primary cause of black lung, the common name for coal workers pneumoconiosis, a deadly and incurable occupational lung disease which is known to be entirely preventable through proper dust control. Miners who contract the painful disease through the inhalation of coal dust slowly lose the ability to breathe, eventually suffocating to death over a period of years.

The pervasiveness of black lung in the US is staggering. The Department of Labor reported 549,619 black lung claims nationwide in fiscal year 2012, the latest year for which data is available. Central Appalachia (southern West Virginia and eastern Kentucky) and southwest Virginia are particularly affected by the disease, with black lung rates among miners at around 9 percent. The disease has killed more than 76,000 coal miners since 1968, the year before the passage of the Coal Mine Health and Safety Act, which set the initial dust control standards.

The current coal dust standard was implemented in 1980 and in 1991 the Labor Department began the process of creating new standards. Nearly two decades ago, in 1995, the National Institute for Occupational Safety and Health (NIOSH), a federal agency, recommended the dust limit be cut in half to 1.0 milligram as health officials began documenting a disturbing resurgence in cases of black lung.

Not only has the rate and number of miners contracting black lung been rising, but the disease's aggressiveness and rapidity of progression have also been on the rise. In addition, miners

are contracting this deadly disease at a younger age. Since NIOSH first made its recommendation in 1995, some 15,000 miners have died from black lung.

In all, it has taken the government 23 years to implement this change. During these same 23 years the government has been able to repeatedly grant massive tax breaks to the rich and spend trillions bailing out the banks, but has repeatedly postponed health and safety measures for workers.

In its retreat from the 1.0-milligram recommendation, the Obama administration has the blood of hundreds of miners on its hands. In her blog, *The Pump Handle*, former MSHA staffer Celeste Monforton explained that the agency had estimated that 20 out of every 1,000 coal miners would still develop progressive massive fibrosis (PMF)—the most severe form of black lung—even if the standards were reduced to 1.0 milligram. Under the 1.5 milligram standard, MSHA expects 50 cases of PMF for every 1,000 coal miners.

With approximately 50,000 miners laboring in underground coalmines in the US, this amounts to a cruel death sentence for hundreds of miners each year and a death toll that will run into the thousands with time. That such statistics are considered acceptable to the ruling elite is an indictment of the capitalist system and an exposure of its irrationality and barbarity.

Nor does the new law change the levels of silica dust allowed. Silica dust is produced when drilling into rock and it is understood that silica causes black lung to be more debilitating and deadly sooner.

Predictably, the coal industry and their political advocates have decried even the Obama administration's loosened rules as an unwarranted impingement on the industry's right to amass profit regardless of the human toll it entails or the social consequences. The National Mining Association, the industry's trade group, filed a petition earlier this month with the U.S. Court of Appeals for the 11th Circuit in Atlanta in an attempt to block implementation of the new rules. The same court overturned previous modifications to MSHA's dust standards in 1998.

Meanwhile, the Obama administration and its allies have presented the new standards as a legitimate compromise. Tied politically to the Democratic Party, the United Mine Workers (UMW) union has given the inadequate new standards its

support, only saying that miners in nonproducing sections of the mine should have to carry dust monitors as well.

While never adequate enough to accomplish its ostensible mission of eradicating black lung, the 1969 Coal Act did significantly reduce the toll of the disease throughout the 1970s and 80s. However, structural changes in the coal industry since then—increased mechanization and production rates, thinning coal seams that release more rock dust when cut into, and longer working hours—have all worked to gradually undermine even the limited effectiveness the provisions of the Coal Act once had.

Over the past quarter century, efforts to reform or tighten the coal dust limits have been stalled under Democratic and Republican administrations alike, and have been stymied by both the coal mining industry and the UMW.

After opposing reforms to the dust standards while UMW health and safety director during the Clinton administration, Joseph Main was appointed head of the MSHA in October 2009 and announced a new campaign to end black lung. In October 2010, MSHA proposed new rules based on NIOSH's 1995 recommendation to cut the dust limit to 1.0 milligram. Hearings were held throughout 2011 on the proposed rules as House Republicans stalled their implementation by forcing two studies to be completed on the science behind them and their economic effects.

The rules then remained stalled in review by the Obama White House since August of last year. After discussions were held with coal industry representatives and officials from the UMW, the Obama administration decided to significantly reduce the strength of the limits to the 1.5 milligrams. In doing so, the administration has once again exposed its subservience to big business, the cost of which will be measured in the thousands of miners who will continue to die from the entirely preventable disease in the years to come.

Under the existing rules, dust samples are taken by personal monitoring equipment worn by miners over the course of eight hours, regardless of whether the miner works the more common 10- or 12-hour shift. Coal operators then get to average five of these samples to demonstrate compliance, meaning that individual miners are allowed to be exposed to dust levels above the 2.0 milligrams.

Moreover, when inspectors are taking dust samples under the existing rules, the coal mine is allowed to operate at as low as 50 percent of its normal production capacity, vastly understating the actual level of dust exposure encountered by the average miner on a normal day. Even when federal inspection samples show noncompliance, the coal operator is allowed to submit its own samples to evade any penalty.

These deliberate loopholes have been coupled with lax enforcement over the years, leading to a well-documented record of cheating throughout the industry. "The system for monitoring dust levels is tailor-made for cheating, and mining companies haven't been shy about doing so," concluded a

2012 investigation by the Center for Public Integrity. "Meanwhile, regulators often have neglected to enforce even these porous rules."

The Center also found that of the more than 53,000 dust samples MSHA had received showing miners had been exposed to greater dust levels than legally allowed, less than 2,400 resulted in citations. These violations often go uncorrected for weeks with MSHA granting long extension times, particularly in areas like Southern West Virginia where black lung rates are among the highest.

Beginning in August 2014, under the new rules, mines will be required to operate at least at 80 percent of normal production during sampling, and MSHA will be able to issue citations if any of the samples show noncompliance. Continuous personal dust monitors will become mandatory beginning February 2016 and will have to be worn for the entire shift worked by the miner. The 1.5-milligram dust limit will become effective on August 1, 2016.

The announcement of the new dust standards comes on the heels of new cuts to black lung treatment. In late March, the Obama administration abruptly announced it was limiting grants offered through the Black Lung Clinics program to \$900,000 per state. The reductions threaten the already inadequate treatment offered to thousands of miners suffering from the debilitating disease.

The cuts will be felt immediately in West Virginia—the only state which currently receives more than the new cap—where funding will be slashed by more than one-third. Last year, West Virginia received \$1.4 million through the program that it uses to fund its eight black lung clinics throughout the state, servicing nearly 8,500 miners and recording more than 52,000 visits.

The Black Lung Clinics program through which the cuts are to be implemented was authorized through the Black Lung Benefits Reform Act of 1977 and is operated under the auspices of the U.S. Department of Health and Human Services. The program currently provides funding to 14 states for black lung treatment.



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