4520.43-P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 70, 71, 72, 75, and 90

[Docket No. MSHA 2018-0014]

RIN 1219-AB90

Retrospective Study of Respirable Coal Mine Dust Rule

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Request for information; close of comment period.

SUMMARY: On May 1, 2014, the Mine Safety and Health Administration (MSHA) published a final rule, "Lowering Miners' Exposure to Respirable Coal Mine Dust, Including Continuous Personal Dust Monitors" (Dust rule). In the preamble to the Dust rule, MSHA stated its intent to take the lead in conducting a retrospective study beginning February 1, 2017. In this Request for Information (RFI), MSHA is soliciting stakeholder comments, data, and information to assist the Agency in developing the framework for this study to assess the impact of the Dust rule on lowering coal miners' exposures to respirable coal mine dust to improve miners' health. In addition, as part of the Agency's ongoing effort to provide compliance and technical assistance to mine operators and miners, MSHA is soliciting information and data on engineering controls and best

practices that lower miners' exposure to respirable coal mine dust.

DATES: Comments must be received or postmarked by midnight Eastern Standard Time (EST) on July 9, 2019.

ADDRESSES: Submit comments and informational materials, identified by RIN 1219–AB90 or Docket No. MSHA 2018-0014, by one of the following methods:

- *Federal E-Rulemaking Portal*: https://www.regulations.gov. Follow the on-line instructions for submitting comments.
- *Email*: zzMSHA-OSRVRegulatoryReform@dol.gov.
- *Mail*: MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202-5452.
- *Hand Delivery or Courier*: 201 12th Street South, Suite 4E401, Arlington, Virginia, between 9:00 a.m. and 5:00 p.m. Monday through Friday, except Federal holidays. Sign in at the receptionist's desk on the 4th floor East, Suite 4E401.
- *Fax*: 202-693-9441.

Instructions: All submissions must include RIN 1219–AB90 or Docket No. MSHA 2018-0014. Do not include personal information that you do not want publicly disclosed.

Email Notification: To subscribe to receive email notification when MSHA publishes rulemaking documents in the Federal Register, go to https://www.msha.gov/subscriptions.

FOR FURTHER INFORMATION CONTACT: Sheila A. McConnell, Director, Office of Standards, Regulations, and Variances, MSHA, at mcconnell.sheila.a@dol.gov (email), 202-693-9440 (voice), or 202-693-9441 (fax). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION:

Availability of Information

MSHA will post all comments without change, including any personal information provided. Access comments and information electronically at https://www.regulations.gov, or https://www.msha.gov/currentcomments.asp. Review comments in person at MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Arlington, Virginia, between 9:00 a.m. and 5:00 p.m. EST Monday through Friday, except Federal holidays. Sign in at the receptionist's desk on the 4th floor East, Suite 4E401. To read background documents on the final rule, "Lowering Miners' Exposure to Respirable Coal Mine Dust, Including Continuous Personal Dust Monitors" (79 FR 24814), go to https://www.regulations.gov, and search under RIN 1219-AB64 or Docket No. MSHA-2010-0007.

I. Background

On May 1, 2014, MSHA published a final rule, "Lowering Miners' Exposure to Respirable Coal Mine Dust, Including Continuous Personal Dust Monitors" (79 FR 24814). The purpose

of the rule is to reduce occupational lung diseases in coal miners. Chronic exposures to respirable coal mine dust cause lung diseases that can lead to permanent disability and death. The Dust rule improves health protection for coal miners by reducing their occupational exposure to respirable coal mine dust and by lowering the risk that they will suffer material impairment of health or functional capacity over their working lives. Several provisions specifically lower coal miners' exposure to respirable coal mine dust by lowering exposure limits; basing noncompliance determinations on MSHA's inspectors' single-shift samples; and changing the definition of normal production shift. Other provisions reduce respirable coal mine dust levels and further protect miners by requiring full-shift sampling to account for occupational exposures greater than eight hours per shift and requiring more frequent sampling of selected occupations and locations using the Continuous Personal Dust Monitor (CPDM). All of the phased Dust rule requirements were effective as of August 1, 2016.

II. Study to Assess Effects of Dust Rule

As MSHA noted in the preamble to the Dust rule, the health effects from occupational exposure to respirable coal mine dust consist of interstitial and obstructive pulmonary diseases (79

FR 24819). Interstitial lung diseases, like coal workers' pneumoconiosis (CWP) and silicosis, have a significant latency period between exposure and disease. The health effects from exposure to respirable coal mine dust may not be realized for a decade or more until the disease becomes clinically apparent. In addition, the chronic effects of interstitial lung diseases, such as CWP and silicosis, may progress or worsen even after miners are no longer exposed to respirable coal mine dust. Thus, miners' exposure to respirable coal mine dust before final implementation of the Dust rule on August 1, 2016, may continue to contribute to the development of lung diseases in coal miners. New miners hired after August 1, 2016, are the only cohort of coal miners who are unaffected by exposures that occurred before full implementation of the Dust rule.

In the preamble to the Dust rule, MSHA stated its intent to take the lead in conducting a retrospective study beginning February 1, 2017 (79 FR 24867), with an unspecified completion date. Since the Dust rule went into effect, MSHA has analyzed more than 250,000 respirable dust samples taken by mine operators who use the CPDM and by MSHA inspectors who use the gravimetric sampler. MSHA's analysis shows that more than 99 percent of the samples were in compliance with the MSHA respirable coal mine dust standards.

The sample data allow MSHA to evaluate the effectiveness of dust controls in mines and whether the rule results in reduced levels of respirable coal dust. However, due to the latency between exposure and disease, MSHA likely will not be able to evaluate fully the health effects of the rule for a decade or more.

While the Agency continues to evaluate the respirable dust samples, MSHA also is seeking comments, data, and information from stakeholders to assist the Agency in developing a framework to assess the health effects of the Dust rule and its impact on the health protections provided to coal miners going forward. With respect to suggested elements for a framework, commenters should be specific and include detailed rationales and supporting documentation, if any. Throughout the comment period, MSHA will continue to consult with interested parties and the Department of Health and Human Services' National Institute for Occupational Safety and Health (NIOSH), as it collects and evaluates all available information, comments in response to this RFI, respirable coal mine dust sampling data, and compliance rates for controlling exposure to coal mine dust.

III. Engineering Controls and Best Practices

As mentioned, since the Dust rule's publication and implementation, MSHA has continually evaluated respirable dust

controls and best practices for compliance with the rule's requirements. The Agency has met with mine operators and miners to provide mine-specific compliance and technical assistance. MSHA also held a MSHA/NIOSH-sponsored meeting on engineering controls and best practices on December 6, 2016. Technical assistance materials and other materials from the meeting are available on MSHA's website at https://www.msha.gov.

MSHA intends to continue its consultations and will continue to offer technical assistance on best practices for controlling coal mine dust and quartz exposures. MSHA is interested in the engineering controls and best practices that mine operators find most effective to achieve and maintain the required respirable coal mine dust and quartz levels -- particularly those practices that can be replicated throughout coal mines nationwide to achieve similar results.

IV. Data Request

The purpose of this RFI is to solicit comments, data, and information from industry, labor, NIOSH, and other stakeholders to assist MSHA in developing the framework for a study to assess the health effects of the Dust rule. Commenters should be specific about any recommendations they offer, including detailed rationales and supporting documentation.

V. National Academy of Sciences Study

MSHA notes that in the Explanatory Statement to the 2016 Consolidated Appropriations Act (Pub. L. No. 114-113), Congress directed NIOSH to charter a National Academy of Sciences (NAS) study to examine and describe: current monitoring and sampling protocols and requirements to understand miners' occupational exposure to respirable coal mine dust in the United States and other industrialized countries; coal mine dust composition and application procedures, including the impact of new rock dust mixtures and regulatory requirements; monitoring and sampling technologies, along with sampling protocols and frequency; and the efficacy of those technologies and protocols in aiding decisions regarding the control of respirable coal mine dust and mine worker exposure. Congress directed MSHA to provide assistance and necessary data to NAS for its study, which the Agency has done and continues to do when requested. MSHA will evaluate the results of the NAS study after the report is final.

David G. Zatezalo,

Assistant Secretary of Labor

for Mine Safety and Health.

[FR Doc. 2018-14536 Filed: 7/6/2018 8:45 am; Publication Date: 7/9/2018]