
WEST VIRGINIA ADMINISTRATIVE REGULATIONS

DEPARTMENT OF MINES

CHAPTER 22-4

(1982)

SUBJECT: INTERPRETATIVE RULES AND REGULATIONS GOVERNING MANDATORY REPAIRABLE
DUST STANDARDS FOR UNDERGROUND COAL MINES IN THE STATE OF WEST
VIRGINIA

FILED IN THE OFFICE OF
A. JAMES MANCHIN
SECRETARY OF STATE
THIS DATE 5/21/82

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FOR UNDERGROUND COAL MINES IN THE STATE OF WEST VIRGINIA

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SUBJECT: Rules and Regulations Governing Mandatory Respirable Dust Standards for Underground Coal Mines in the State of West Virginia

TYPE OF RULE: Interpretive ACTION: Temporary Emergency Regulations

Section 1. General

1.01 Authority - These rules and regulations are issued as an interpretation of West Virginia Code Chapter 22, Article 2, Sections 48 and 70d and are authorized by West Virginia Code Chapter 29A, Article 3, Section 15.

1.02 Effective date - These rules and regulations were promulgated on the 21st day of May, 1982, and become effective on the 21st day of May, 1982.

1.03 Filing Date - These rules and regulations were filed in the office of the Secretary of State on the 21st day of May, 1982.

1.04 Scope and effect - These rules and regulations set forth Mandatory Respirable Dust Standards for Underground Coal Mines in the State of West Virginia. These rules and regulations are intended to provide information and guidance to the public regarding the Department of Mines' interpretations upon the enforcement of West Virginia Code Chapter 22, Article 2, Sections 48 and 70d.

Section 2. Definitions

2.01 Unless the context in which a word or phrase appears clearly requires a different meaning, all terms used in these rules and regulations, which are

not defined, shall have the meaning set forth in Section 1, Article 1, Chapter 22 of the West Virginia Code.

2.02 "Active workings" - Any place in a coal mine where miners are normally required to work or travel.

2.03 "Certified person" - An individual certified by the Director of the Department of Mines, or an organization whose certification is recognized as authoritative on the subject by the Director of the Department of Mines, to take respirable dust samples and perform the maintenance and calibration or respirable dust sampling equipment as required by these rules and regulations.

2.04 "Concentration" - A measure of the amount of substance contained per unit volume of air.

2.05 "Designated area" - An area of a mine identified by the operator in the plan approved by the MSHA District Manager.

2.06 "Designated occupation" - The occupation on a mechanized mining unit that has been determined by results of respirable dust samples to have the greatest respirable dust concentration.

2.07 "MSHA District Manager" - The manager of the Coal Mine Safety and Health district in which the mine is located.

2.08 "Mechanized mining unit" - (1) A unit of mining equipment including hand loading equipment used for the production of material; or (2) A specialized unit which utilizes mining equipment other than specified in these rules and regulations. (Bimonthly sampling; Mechanized mining units).

2.08.1 "Miner" - A non-supervisory employee of a coal operator.

2.09 "MRE Instrument" - The gravimetric dust sampler with a four channel horizontal elutriator developed by the Mining Research Establishment of the National Coal Board, London, England.

2.10 "M.S.H.A." - The Mine Safety and Health Administration of the Department of Labor.

2.11 "Normal production shift" - (1) A production shift during which the amount of material produced in a mechanized mining unit is at least 50 percent of the average production reported for the last set of five valid samples; or (2) A production shift during which any amount of material is produced by a new mechanized mining unit, until a set of five valid samples is taken.

2.12 "Production shift" - (1) With regard to a mechanized mining unit, a shift during which material is produced, or (2) with regard to a designated area of a mine, a shift during which material is produced and routine day-to-day activities are occurring in the designated area.

2.13 "Quartz" - Crystalline silicon dioxide (SiO_2) not chemically combined with other substances and having a distinctive physical structure.

2.14 "Respirable dust" - Dust collected with a sampling device approved by the Director of the Department of Mines in accordance with Part 74, Title 30 Code of Federal Regulations. Sampling device approvals issued by the Secretary of the Interior and Secretary of Health, Education, and Welfare are approved by the Department of Mines.

2.15 "Secretary" - The secretary of the United States Department of Labor or his delegate, or any successor agency of the federal government charged with the enforcement of mine safety.

2.16 "Valid respirable dust sample" - A respirable dust sample collected and submitted as required by Part 70, Title 30 Code of Federal Regulations, and not voided by M.S.H.A.

Section 3. Respirable Dust Standards

3.01 Sampling program. (1) Each operator of a coal mine shall take

accurate samples of the amount of respirable dust in the mine atmosphere to which each miner in the active workings of such mine is exposed. Such samples shall be taken by any device approved by the Secretary of the United States Department of Labor, or any successor agency of the federal government charged with the enforcement of mine safety. Such samples shall be taken in accordance with such methods, at such locations, at such intervals, and in such manner as provided by the Secretary of the United States Department of Labor in regulations promulgated at 30 C.F.R. Part 70. Each coal operator shall make available to the Department of Mines the results of the analysis of such samples conducted by the United States Department of Labor, unless the Department of Mines notifies such operator that such results of sample analysis have been obtained by the Department of Mines directly from the federal enforcement authorities.

3.02 Respirable dust standards. (a) Each operator shall continuously maintain the average concentration of respirable dust in the mine atmosphere during each shift to which each miner in the active workings of each mine is exposed at or below 2.0 milligrams of respirable dust per cubic meter of air as measured with an approved sampling device and in terms of an equivalent concentration determined in accordance with 30 C.F.R. § 70.206 (Approved sampling devices; equivalent concentrations).

(b) Each operator shall continuously maintain the average concentration of respirable dust within 200 feet outby the working faces of each section in the intake airways at or below 1.0 milligrams of respirable dust per cubic meter of air as measured with an approved sampling device and in terms of an equivalent concentration determined in accordance with 30 C.F.R. § 70.206 (Approved sampling devices; equivalent concentrations).

3.03 Respirable dust standard when quartz is present. When the respirable dust in the mine atmosphere of the active workings contains more than 5 percent quartz, the operator shall continuously maintain the average concentration of respirable dust in the mine atmosphere during each shift to which each miner in the active workings is exposed at or below a concentration of respirable dust, expressed in milligrams per cubic meter of air as measured with an approved sampling device and in terms of an equivalent concentration determined in accordance with 30 C.F.R. § 70.206 (Approved sampling devices; equivalent concentrations), computed by dividing the percent of quartz into the number 10.

(Example: The respirable dust associated with a mechanized mining unit or a designated area in a mine contains quartz in the amount of 20%. Therefore, the average concentration of respirable dust in the mine atmosphere associated with that mechanized mining unit or designated area shall be continuously maintained at or below 0.5 milligrams of respirable dust per cubic meter of air ($10/20 = 0.5 \text{ mg/m}^3$).

Sectuib 4. Enforcement

4.01 If, based upon samples taken, analyzed, and recorded pursuant to Section 3.01 of these regulations, or samples taken during an inspection by an authorized representative of the Secretary of the United States Department of Labor or an authorized representative of the Director, the applicable limit on the concentration of respirable dust required to be maintained pursuant to sections 3.02 or 3.03 of these regulations is exceeded and thereby violated, the Director or his authorized representative shall issue a notice of violation of West Virginia Code Chapter 22, Article 2, Section 70d pursuant to West Virginia Code Chapter 22, Article 1, Section 14(b), fixing a reasonable time for the abatement of the violation. During the time for abatement fixed in the notice of violation, the operator shall take corrective action to lower the concentration of respirable dust in the affected mechanized mining

unit or designated area and then sample each production shift unit until five valid respirable dust samples are taken.

4.02 If, upon the expiration of the period of time as originally fixed or subsequently extended, the Director or his authorized representative finds that the period of time should not be further extended, he shall determine the extent of the area affected by the violation and shall promptly issue an order requiring the operator of such mine or his agent to cause immediately all persons, except those referred to in West Virginia Code Chapter 22, Article 1, Section 14(c), to be withdrawn from, and to be prohibited from entering such area until the Director or his authorized representative has reason to believe, based on actions taken by the operator, that such limit will be complied with upon the resumption of mining operations in such mine.

4.03 The Director and his authorized representatives may require the operator to take such actions as they deem appropriate to insure the respiratory health of any person in or at a mine during any inspection of such mine pursuant to West Virginia Code Chapter 22, Article 1, Sections 13, 14, and 15. Such actions include, but are not limited to, increasing the quantity and velocity of air reaching the working faces, increasing the amount and pressure of water sprays on mechanical equipment and requiring the availability for use of approved respirators for all persons exposed to concentrations of respirable dust in excess of the levels required to be maintained under these regulations. Use of respirators shall not be substituted for environmental control measures in the active workings.

Section 5. Miner Participation

5.01 Miner participation designated occupation respirable dust samples. When designated occupation respirable dust samples are to be collected as required by Part 70, Title 30 Code of Federal Regulations, the miner designated for sampling shall monitor the sampling procedures. Monitoring of the respirable dust sampling procedures shall consist of the following:

- (1) Observe the distribution, placement and collection of the sampling device used to take the dust sample.
- (2) Observe all required on shift examinations of the sampling device.
- (3) Observe the removal of the sample from the sampling device and observe the properly completed dust data card for the transmittal fo the sample to MSHA.

The operator shall place upon the operators dust data card the name of the non-supervisory employee that monitored the respirable dust samples collected in the designated occupation.

A miner designated to monitor the respirable dust samples collected in designated occupation shall monitor such sampling procedures and should make note of the identification number of the filter cassette to compare with such data that will be received by the operator from MSHA and posted on the mine bulletin board.

5.02 Miner participation - Designated area; respirable dust samples. When designated area respirable dust samples are to be collected as required by 30 Code of Federal Regulations §70.208, the authorized representative of the miners at the mine shall designate a miner in the area to be sampled to monitor the designated sampling procedures. If no representative is authorized at the mine, the miners shall select a miner in the area of the mine to be sampled to monitor the designated area sampling procedures. Monitoring of the respirable dust sampling procedures shall consist of the following:

- (1) Observe the distribution, placement and collection of the sampling device used to take the dust sample.
- (2) Observe all required on shift examinations of the sampling devices.
- (3) Observe the removal of the sample from the sampling device and observe the properly completed dust data card for the transmittal of the sample to MSHA.

The operator shall place upon the operators dust data card the name of the non-supervisory employee that monitored the respirable dust samples collected in the designated areas.

A non-supervisory employee designated to monitor the respirable dust samples collected in designated areas shall monitor such sampling procedures and should make note of the identification number on the filter cassette to compare with such data that will be received by the operator from MSHA and posted on the mine bulletin board.

Section 6. Reference to Federal Standards

6.01 The definitions, sampling procedures, methods and equipment established under 30 Code of Federal Regulations, Part 70 for the control of respirable dust are incorporated by reference in these regulations as if such were fully set out herein. The West Virginia Department of Mines recognizes these federal regulations as the established standards for enforcement of West Virginia Code Chapter 22, Article 2, Section 48 and 70d. 30 C.F.R. Part 70 shall be recognized by the West Virginia Department of Mines for the purpose of enforcement of respirable dust standards unless any provision of such regulations is determined to reduce or compromise the level of safety or protection afforded miners below the level of safety or protection afforded by the West Virginia Code Chapter 22 or these regulations.