

Draft covering letter to Lord Mackenzie

I am pleased to send you the Health and Safety Commission's proposals for the Coal Mines (Control of Inhalable Dust) Regulations. This measure will significantly improve the health protection offered to coal mine workers, and also implement the requirements of the European Chemical Agents Directive in respect of the health effects of coal mine dust and quartz below ground in coal mines.

The new measures would replace the Coal Mine (Respirable Dust) Regulations 1975 (RDR). RDR has been very successful in achieving a reduction in the prevalence of pneumoconiosis (and indirectly the prevalence of diseases such as chronic bronchitis and emphysema), and almost eradicating the worst forms of the disease. However, a series of cases at the end of the 1990's highlighted the need for action to strengthen the regime.

The major changes introduced by the new regulations are the introduction of personal sampling, time-weighting to take account of new shift patterns, and the extension of health surveillance to contractors' employees.

These measures combine features of the Control of Substances Hazardous to Health Regulations 2002 (COSHH) and RDR control regimes. In line with COSHH they would apply time-weighted exposure control limits based on levels of personal exposure. In line with RDR they would require **monthly** sampling and if the time-weighted exposure control limits are breached, the mine manager must immediately take further action, which can include stopping the relevant operations if the problem cannot be resolved.

We believe that by marrying the best principles from the COSHH Regulations and the former RDR the proposals provide the coal mining industry with a robust regime to protect individuals from the hazard of exposure to inhalable dust in coal mines.

An Approved Code of Practice and general guidance support the proposed Regulations. They have been developed in consultation with a working group drawn from the industry including mine owners, mining trade unions and other experts with mining interests. Due to its policy of not attending meetings where the Union of Democratic Mineworkers is also represented, the National Union of Mineworkers was not represented on the working group; it has however, been fully consulted on the proposals and supports the proposals.

The Commission would be grateful for your agreement to the proposed Regulations and to the Commission approving the ACoP under s.16 of the Health and Safety at Work etc. Act 1974.

In line with the Government's policy on common commencement dates we propose that the Regulations and supporting ACoP should come into force on 1 October 2007.

Bill Callaghan
Chair HSC

Key features of the proposals

1. These proposals combine features of the Control of Substances Hazardous to Health Regulations 2002 (COSHH) and RDR control regimes. In line with COSHH they would apply time-weighted exposure control limits based on levels of personal exposure. In line with RDR they would require monthly sampling and if the time-weighted exposure control limits are breached, the mine manager must immediately take further action, which can include stopping the relevant operations if the problem cannot be resolved.

2. The proposals would therefore strengthen the existing legislation in the following ways:

- they would establish a goal-setting framework requiring the mine manager to assess the risk to workers, identify dust sources and take steps to reduce the dust exposure of all workers to as low as is reasonably practicable, and identify those workers who have high exposure for regular exposure sampling;
- exposure control limits would be time-weighted. The time-weighting will take account of the importance to health of adequate breaks between spells of exposure to dust as well as the length of individual shifts. The exposure control limits would reduce in proportion to the length of exposure i.e. the longer people are at work, the lower the dust level allowed;
- a single sample result exceeding an exposure control limit would require an investigation and corrective action. Inadequate control would lead to operations being stopped more rapidly than with RDR;
- all persons with significant exposure to inhalable dust, whether employed by the mine owner or a contractor, must be under health surveillance;
- an exposure control limit for the quartz component of coal mine dust will apply throughout the mine, not just headings;
- they would introduce sampling arrangements designed to go beyond mineral getting activities to focus on those at greatest risk of exposure above the exposure control limits wherever they work.
- although the regulations do not stipulate the method of sampling, the ACoP encourages personal sampling.