

Senate passes legislation to make the largest ever investment in Abandoned Mine Land Clean-up

Before 1977, coal mine operators were not required to do any mine land reclamation. Decades of mining left billions of dollars worth of open mine portals, unstable slopes and highwalls, and polluted waters across coal communities. In 1977, Congress established the Abandoned Mine Land (AML) fund under the Surface Mining Control and Reclamation Act (SMCRA). The fund receives revenues from a small fee on coal production (for the last 15 years, that fee has been \$0.28 per ton of surface mined coal and \$0.12 per ton of underground coal). Since its creation, the AML program has eliminated over 46,000 open mine portals, reclaimed over 1,000 miles of dangerous highwalls, restored water supplies to countless residents of coalfield communities, and created jobs and economic development opportunities. It has also protected 7.2 million people nationwide from hazards like landslides and flooding that result from leaving damaged lands unaddressed.

Over the last forty years of the AML program, states have received just over \$6 billion in total grant distributions. But on August 10th, the Senate passed the Infrastructure Investment and Jobs Act to make a historic investment of \$11.29 billion in AML clean-up and also to reauthorize the Abandoned Mine Reclamation Fee for 13 years at 80% of its current

level. While the full cost of reclaiming all remaining AML sites will likely exceed \$20 billion and will not be completed in just the next 15 years, this investment roughly equals the reclamation costs currently in the federal database.

Funding will be distributed to 25 states and three tribes based on a state or tribe's coal production prior to the passage of the SMCRA in 1977. AML clean-up will spur economic development and make our communities safer places to live. AML projects will put people to work repairing land and waterways affected by mining and stabilize and prepare sites for future development.

Example Calculations of Economic Impact

| State | Conservative Estimate of Unfunded AML Reclamation | Projected Amount of Funding for next 15 years | Estimated Job Creation* |
|---------------|---|---|-------------------------|
| West Virginia | \$1,781,631,554 | \$2,184,398,644 | 1,730 jobs created |
| Virginia | \$425,095,976 | \$353,698,580 | 300 jobs created |

**Economic impact estimates comes from a West Virginia-based consulting firm, Downstream Strategies*

The successful passage of this new funding for abandoned mine lands represents a major victory for advocates from coal communities who have been fighting for years to spur economic development through coal mine reclamation. Though it has passed the Senate, it is still unclear when the House of Representatives will vote on the legislation. Currently, advocates are seeking to maximize the impact of these AML investments for coal communities by advocating for local labor to be used

(Abandoned mine clean-up cont'd) in these projects and that projects require beneficial project labor agreements.

Even though this funding can be a widely celebrated investment, we know it won't be enough to actually remediate all of the AML sites in coal communities. In addition, it cannot be used to fund reclamation

projects on any modern-era mines that have been active in recent decades. However, advocates are working on different legislation to ensure that modern-era mines are also reclaimed and that local miners are hired for the work. If you are interested in learning more about advocacy work related to mine land reclamation, you are invited to contact Rebecca Shelton (ACLCL) at 606.633.3929.

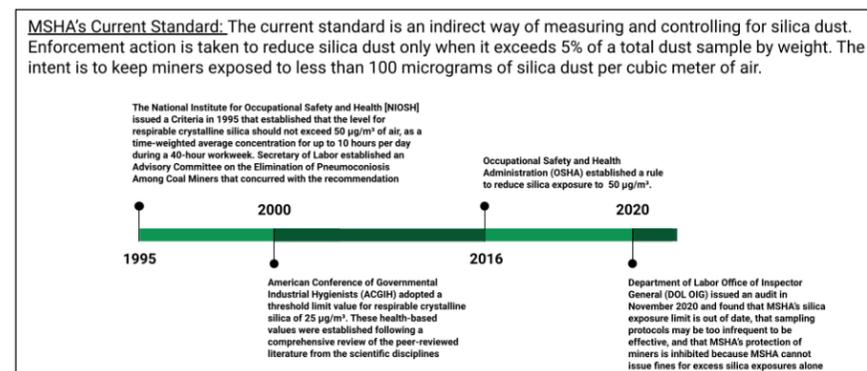
Appalachian Citizens' Law Center Petitions the Mine Safety and Health Administration for a Stronger Silica Standard

On July 8th, Appalachian Citizens' Law Center, Inc (ACLCL) submitted a petition to the Biden Administration's Mine Safety and Health Administration urging the agency to create a rule to protect coal miners from exposure to respirable silica. This is the second time ACLCL has petitioned for such a rule. Over a decade ago, ACLCL petitioned MSHA to establish a dust standard for respirable crystalline silica. While MSHA responded and stated an intention to publish a proposed standard by April 2011, the rule was never promulgated and a decade of inaction followed. As a result, the silica standard for coal miners has not been updated since 1985, as countless miners have become sick and died as a result of black lung disease.

The Mine Act under which MSHA operates requires the agency to regulate dust so that "no miner will suffer material impairment of health or functional capacity," even if that miner were to spend his/her entire working life in the mines. Yet over the last decade, an epidemic of black lung disease has emerged in Central Appalachia.

Wes Addington, Director of ACLCL, says that MSHA's failure to create a standard years ago has cost many miners their health and their quality of life. "Before 2010, we rarely encountered miners diagnosed with complicated coal workers' pneumoconiosis, or progressive massive fibrosis. Since that time, scores of miners have come through our doors with very severe disease. They are younger and sicker than ever before and have been robbed of the life they hoped would follow their careers in the coal mines. A silica standard is long, long overdue," said Wes Addington.

There is no doubt that exposure to silica dust is a causal factor in this occupational epidemic. Over the last twenty-five years, health experts and government bodies have developed and rigorously reviewed scientific evidence and repeatedly concluded that MSHA's silica standard is egregiously inadequate. The current standard is an indirect way of measuring and controlling for silica dust. Enforcement action is taken to reduce silica dust only when it exceeds 5% of a total dust sample by weight. The intent is to keep miners exposed to less than 100 micrograms of silica dust per cubic meter of air. The timeline below illustrates the recommendations of other government agencies:



(Silica standard cont'd) MSHA responded to ACLCL's petition stating, "As shown in the Department of Labor's Spring 2021 Unified Agenda of Regulatory and Deregulatory Actions (available at [Reginfo.Gov](https://www.reginfo.gov)), MSHA intends to issue a proposed rule on respirable crystalline silica. At present, MSHA is developing a regulatory proposal that would address miners' exposures to respirable silica and reduce their risk of developing lung diseases such as progressive massive fibrosis and rapidly progressive pneumoconiosis."

While there is reason to hope that there will be a strong rule, it is important to recognize that the rule has been listed on the agency's regulatory agenda in some form since, at least, 2016. We will have to wait and see whether or not we are actually closer to getting a rule now than we were years ago.

Interagency Working Group on Coal & Power Plant Communities & Economic Revitalization

Shortly after taking office in January, President Biden established the Working Group on Coal Communities (also known by its official name: the Interagency Working Group on Coal and Power Plant Communities and Economic Revitalization). This group of cabinet secretaries and other federal officials is charged with crafting policy and guiding resources to revitalize the economy in communities that have recently lost coal jobs.

So far, the working group has partnered with the Economic Development Administration to allocate \$300 million in funds for economic development in coal communities.

The importance of the Black Lung Disability Trust Fund, the continued provision of black lung benefits,

and a stronger silica standard have not yet been publicly recognized by the working group. However, there may be opportunities to draw the working group's attention to these issues in the coming months. The working group has stated that it plans to host workshops and listening sessions across the country, but specific details of these plans are not yet available..

To stay updated about the Coal Communities Working Group, visit: www.facebook.com/EnergyCommunitiesUS.



Miners Strike at Warrior Met Coal

Abridged from UMWA journal, July 2021

Approximately 900 workers at Warrior Met's mines near Brookwood, Alabama, have been on strike for five months and counting. The miners, members of UMWA Local Unions 2245, 2397, 2368 and 2427, are demanding better pay and benefits, and accusing Warrior Met of unfair labor practices. Warrior Met Coal recently paid bonuses to upper-level management, while miners accepted pay cuts in 2016 to keep the company viable after filing bankruptcy.

"We risk our lives every day to go underground and do a dangerous job," said Longwall Shear Operator Josh Stewart. "We need to be compensated for that and taken care of. We work six, seven days a week, ten, twelve hours a day and miss all this time with our families. You miss time with your kids, your parents and you can't get that time back. Once it's gone, it's gone."

"Somewhere between 50,000 and 60,000 workers die from occupational illnesses like black lung," said UMWA President Cecil Roberts at one of the many solidarity rallies held near the mines. "They're dying because companies have historically failed to comply with respirable dust standards. Warrior Met Coal is a dangerous company to work for."



(Miner strike, cont'd) Charles Smith, owner of Betty Hill Grocery, opens his store after close at 7:00 p.m. on storming nights so that nearby miners can have shelter until the storm passes. “Those miners are my neighbors and have supported my business for the past 20 years,” said Charles. “They have been with us for all these years, now it’s time for the community to stand with them.”

Understanding the Delta Variant (September 2021 Update)

COVID-19 cases are once again increasing in the United States due to a new variant. The first case of this new Delta strand appeared in the U.K. in December of 2020. In July, the UK reported there were approximately 47,000 new cases of COVID related to the Delta variant and this is one-fifth of the projected cases that will impact the U.S. during the virus’s peak (New York Magazine, July 24, 2021). In the United States, near the end of June, nearly 20% of all COVID cases were caused by the Delta strand (YaleMedicine, 2021).

- The Delta variant is 225% more transmissible than the original strain of COVID-19. The Delta variant spreads 2-3 times faster than the regular COVID-19 virus and people become infectious sooner with this variant than the original virus (NPR, 2021).
- Outbreaks of the virus are most pronounced in areas with low vaccination rates and it is important to note that this strand is affecting young children and older individuals. The Pfizer vaccine is 96% effective against the Delta variant according to a UK study; however, those that have been vaccinated can still be infected, leading to hospitalization (NPR, 2021).
- People who have not been vaccinated are most at risk (YaleMedicine, 2021).

Recommendations:

- It is recommended all eligible individuals receive a COVID vaccine as soon as possible. All three U.S.-approved vaccines have reported effectiveness in fighting the Delta variant. If you have not yet been vaccinated, you can contact your local health department or hospital to schedule a vaccine appointment. You can also receive a vaccine at select pharmacies.
- Due to the increased transmissibility surge of the delta variant, we are at a critical juncture and so are recommending that you reduce your exposure to large crowds. Though there is no mask mandate,

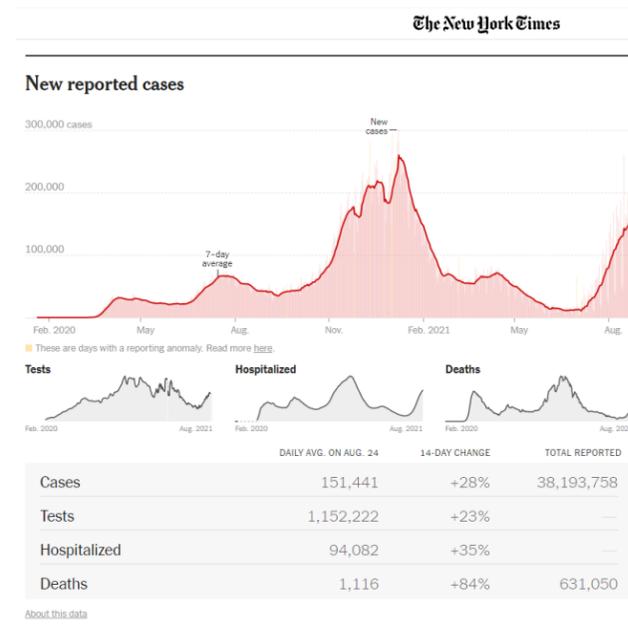


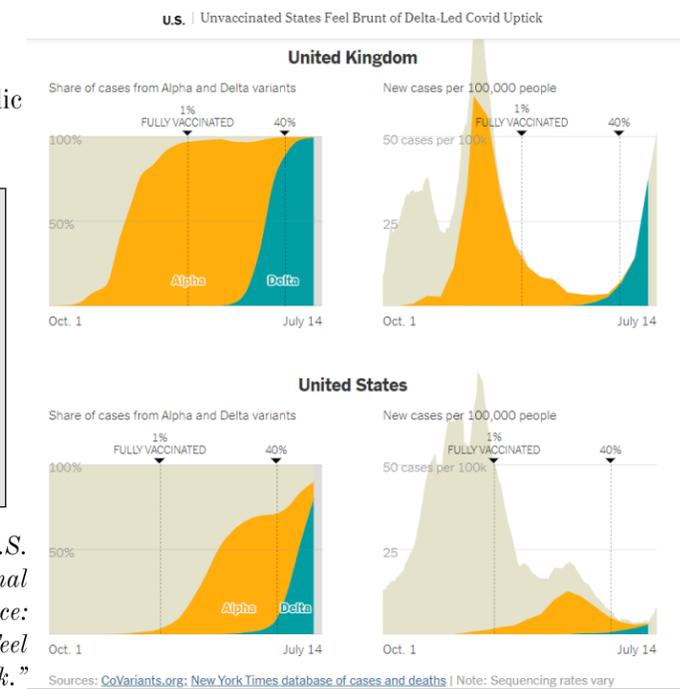
Image 1: United States Map of COVID outbreaks. Source: The New York Times, “Tracking Coronavirus in the US: Latest Map and Case Count.” (Updated Aug 25, 2021)

(COVID recommendations, cont'd) those with pre-existing conditions and thus at higher risk of contracting COVID-19 should wear masks out in public even if vaccinated.

NIOSH Black Lung Screenings Cancelled

The Enhanced Coal Workers’ Health Surveillance Program through NIOSH had to cancel their scheduled September bus trip to West Virginia due to the increasing number of COVID cases. If you or a family member wishes to be screened for black lung this year, you can visit your local black lung clinic. To find a clinic near you, visit hrsa.gov.

Image 2: Vaccinations vs. New Cases in U.S. and U.K. from May 1 to July 14 [Alpha (original COVID-19 strain-)yellow, Delta-green] Source: The New York Times “Unvaccinated States Feel Brunt of Delta-Led Covid Uptick.”



Black Lung Association, Appalachian Voices, and Appalachian Citizens Law Center host ‘People, Power, and Policy’ webinar

By Hannah Wilson-Black

“Everything I do, I gotta pace myself,” explained Gary Hairston during a recent black lung webinar, hosted by Appalachian Voices. “Just the small stuff I used to do. I’d like to be able to do stuff with my grandson but I ain’t got the wind to do it.”

Hairston, who is President of the National Black Lung Association, stopped working at forty-eight after contracting black lung disease while working underground. Hairston and the other speakers featured in the webinar are supporting a 25% increase in a tax paid by coal companies in order to fully fund medical care and disability benefits for miners with black lung, among other policy objectives.

Miners who are disabled with black lung are entitled to disability benefits, and the payment of medical costs related to the disease. Under the 1972 Black Lung Benefits Act, a miner’s former employer is required to provide these entitlements. But if that company has gone bankrupt, benefits and medical care are provided through the federal Black Lung Disability Trust Fund, which is financed by an

excise tax paid by coal companies.

This Black Lung Excise Tax is currently set at one dollar and ten cents per ton of coal mined underground and fifty-five cents per ton of coal extracted from surface mines.

However, Willie Dodson of Appalachian Voices explained that the long-standing inadequacy of the excise tax rate, a rash of coal bankruptcies, and a recent rise in the disease mean the trust fund is deeply in debt, so the tax must be raised by 25% in order to cover all its costs. The alternative, Dodson warned, is buoying the fund with taxpayer dollars while coal companies evade responsibility for black lung.

In addition to advocating for an increase in the excise tax, Appalachian Citizens Law Center (ACLC) is currently petitioning the Mine Safety and Health Administration to strengthen regulations intended to protect miners from exposure to silica dust, a primary cause of black lung.

“Since around 2014, we have represented more than one hundred miners who are younger and sicker than ever before,” said ACLC’s Rebecca Shelton, speaking on the webinar. “And there’s a clear link between silica dust and this form of the disease.” Shelton displayed data demonstrating that black lung cases—especially severe cases—are increasing throughout the country and have been over the past several years, with particular prevalence in Central Appalachia.

Silica dust is produced when miners cut into the rock surrounding coal seams in order to access the coal. Now that thinner coal seams are being mined, miners are cutting more rock and being exposed to more silica dust, especially in Appalachia, Shelton explained.

Vonda Robinson, Vice President of the National Black Lung Association, put it this way: “the gravy’s gone...it’s all rock.” Breathing in these tiny rock

particles can damage the lungs quickly and more severely than coal dust alone, which is causing even young miners to show signs of progressive disease. Like Gary Hairston, Vonda Robinson’s husband John had to leave the mines in his forties due to the disease, well before most people would expect to end their careers.

Advocates hope that with the support of the public, the 25% tax increase might gain some traction politically.

Vonda Robinson’s comments closed out the webinar speaking to the power and camaraderie of organizations like the National Black Lung Association, Appalachian Voices, and Appalachian Citizens Law Center. “We have a great group and we can do something to make some noise to see if we can’t maybe shake ‘em in Washington, D.C. to let ‘em see that we need help,” she said.

Chapter Updates

Black Lung Association of Southeastern Kentucky,

June 2021 (Photo courtesy of Austin Huff, ACLC Intern)

Black Lung Association of Southeastern Kentucky was able to host two in-person meetings this summer. The group had been unable to meet in person since February 2020; however, with lower COVID rates, increased vaccinations, and a larger meeting space they were able to host their first meeting in over a year in June. The members continue to find ways to support policy around extending the excise tax and informing individuals in their area about the benefits process. Due to the once again increasing number of COVID-19 cases, all meetings have been postponed until further notice.



Fayette County Black Lung Association, July 2021

(Photo courtesy of Debbie Wills)

Fayette County, WV Black Lung Chapter recently started meeting in person. Now we are able to include our members who were not able to use Zoom. From the beginning of the pandemic we held monthly Zoom meetings for our members with access to internet. This went really well considering none of us knew how to use Zoom before the pandemic. Special thanks to John Cline, Courtney Rhoades and Rebecca Shelton for their help with this.



Drill Man Blues (1940)

Song by George Sizemore, Submitted by Debbie Wills

I used to be a drill man
Down at old parker;
Drilling through slate and sand rock
Till it got the best of me.

Rock dust has almost killed me,
It’s turned me out in the rain;
For dust has settled on my lungs,
And causes me constant pain.

I can hear my hammer rollin’,
It’s turned me out in the rain;
For drilling is the job I love,
And this I will repeat.

It’s killed two fellow workers,
Here at old parlee;
And now I’ve eaten so much dust, Lord,
That it’s killin’ me.

I’m thinkin’ of poor drill men.
Away in the mine,
Who from eating dust will end up
With a fate just like mine.

(Chapter Updates, cont’d)

Kanawha County Black Lung Association Meeting, August

2021 (Photo Courtesy of Susie Criss)

Kanawha County, WV Black Lung Chapter has met throughout the pandemic. We did cancel meetings for April and May of 2020 but have met every month since then. We sold t-shirts and have cleared over \$1400 so far. Six of us went to Matewan for the dedication of the museum and sold shirts while there. We are working with others on the excise tax, widows’ bill, and the silica rule change.



Nicholas County, WV Black Lung Chapter had our first meeting since the beginning of the pandemic in August. We were extremely careful as many of our membership have severe forms of black lung. At this first meeting, Anita Wolfe was the guest speaker. She talked about the disease and about surveillance.

Virtual National Black Lung Association Call Scheduled for October 28 at 5 p.m.

Meeting ID: 827 3817 3294

To Access the Meeting:

Login by computer for the meeting by visiting
zoom.us and entering the Meeting ID shown above.

To Call in to the meeting:

Dial 301.715.8592* then enter the Meeting ID
shown above.

For assistance, contact Courtney at Appalachian Citizens’ Law Center.

*This is not a toll-free number.

About the Bulletin:

The Black Lung Bulletin is the newsletter of the Black Lung Association, which is composed of both union and non-union miners, and their families. The Bulletin was originally published from 1970-1972. The Bulletin has reemerged, now, as a way to stay connected in a time when it is challenging to be together. In collaboration with Black Lung Association leaders, this bulletin has been organized by John Cline, Debbie Wills (Valley Health), Willie Dodson (Appalachian Voices), Courtney Rhoades (Appalachian Citizens’ Law Center), and Rebecca Shelton (Appalachian Citizens’ Law Center) and published by Appalachian Citizens’ Law Center. We hope that a bulletin can be sent out every few months. Please contact your chapter president or Courtney Rhoades if you have ideas for content (articles you would like to see, or art or poetry you would like to share), if you would like to participate in editing and distributing this bulletin, if you do not want to receive this bulletin, or if you would prefer to receive this bulletin via email.

Courtney Rhoades: courtney@aclc.org or (606) 633-3929