

intervened in the Anglogold case. The parties to the litigation have begun settlement negotiations, and the Department is hopeful that, within the next 45 days, agreement will be reached on many of the issues in dispute.

I. Delayed Effective Dates

To the extent that 5 U.S.C. 553 applies to this action, it is exempt from notice and comment because it constitutes a rule of procedure under 5 U.S.C. 553(b)(A). The delay of the effective date of the rule is effective immediately upon publication of this notice in the **Federal Register**. Publication of this notice without the opportunity for public comment is based on the good cause exceptions in 5 U.S.C. 553(b)(B) and 553(d)(3), in that seeking public comment is impracticable, unnecessary and contrary to the public interest. The 45-day delay of the effective dates is necessary to give the parties an opportunity to engage in negotiations to settle the legal challenges to the rule. Given the imminence of the effective date, seeking prior public comment on this delay is impractical, as well as contrary to the public interest in the orderly promulgation and implementation of regulations. See also, 5 U.S.C. 705 ("When an agency finds that justice so requires, it may postpone the effective date of action taken by it, pending judicial review").

II. Revisions to the Regulatory Text of the Final Rule Addressing Diesel Particulate Matter Exposure of Underground Metal and Nonmetal Miners

List of Subjects in 30 CFR Parts 57

Diesel particulate matter, Metal and Nonmetal, Mine Safety and Health, Underground mines.

The final rule published on January 19, 2001 (66 FR 5526) is amended as follows:

PART 57—[AMENDED]

1. The authority citation for part 57 continues to read as follows:

Authority: 30 U.S.C. 811, 957, 961.

§ 57.5067 [Amended]

2. In § 57.5067, paragraph (a) is amended by removing the date "March 20, 2001" and adding in its place "July 5, 2001."

Note: This amendment supersedes the amendment to § 57.5067(a) published on March 15, 2001 at 66 FR 15033.)

Signed at Arlington, VA, this 16th day of May, 2001.

David D. Lauriski,

Assistant Secretary for Mine Safety and Health.

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DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Part 72

RIN 1219-AA74

Diesel Particulate Matter Exposure of Underground Coal Miners; Corrections

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Final rule; corrections and notice of information collection approval.

SUMMARY: This document contains corrections to the final rule published in the **Federal Register** on January 19, 2001, which addresses the exposure of underground coal miners to diesel particulate matter (dpm) (66 FR 5526).¹ As discussed in the preamble to the final rule, § 72.500 requires that all permissible equipment emit no more than 2.5 grams of dpm per hour. For nonpermissible, heavy-duty diesel-powered equipment, generators and compressors, § 72.501 specifies an interim limit of 5.0 grams of dpm per hour, and a final limit of 2.5 grams of dpm per hour. Similarly, § 72.502 specifies that nonpermissible light-duty equipment other than generators and compressors must emit no more than 5.0 grams of dpm per hour. Although the preamble discussion of these provisions made MSHA's intentions clear as to the emissions limits established in the final regulation, the preamble and the codified text of the final rule contained grammatical errors. Therefore, this correction document is necessary. These corrections are effective on May 21, 2001, the effective date of the final rule.

This document also provides notice that the information collection requirements contained in the final rule have been approved by the Office of Management and Budget (OMB).

EFFECTIVE DATE: These corrections are effective May 21, 2001.

FOR FURTHER INFORMATION CONTACT:

David L. Meyer, Director; Office of Standards, Regulations, and Variances; MSHA, 4015 Wilson Boulevard,

Arlington, Virginia 22203-1984. Mr. Meyer can be reached at *Meyer-David@msha.gov* (E-mail), 703-235-1910 (Voice), or 703-235-5551 (Fax).

SUPPLEMENTARY INFORMATION: On January 19, 2001, MSHA published a final rule that addresses the exposure of underground coal miners to diesel particulate matter (dpm) (66 FR 5526). The rule establishes new health standards for underground coal mines that use equipment powered by diesel engines and, among other things, requires operators of these underground mines to train miners about the hazards of exposure to dpm.

As discussed in the preamble to the final rule (66 FR 5669), § 72.500(a) requires that all permissible diesel-powered equipment introduced into an underground area of an underground coal mine emit no more than of 2.5 grams of dpm per hour as of the effective date of the final rule. Paragraph (b) requires all existing equipment to meet this limit as of July 19, 2002.

For non-permissible, heavy-duty diesel-powered equipment, generators and compressors introduced into an underground area of a coal mine, the final rule's preamble to § 72.501(a) specifies an interim emissions limit; that is, that this equipment must not emit more than 5.0 grams of dpm per hour on the effective date of the final rule. Paragraph (b) requires existing diesel equipment not to exceed this limit as of July 21, 2003. Paragraph (c) prohibits non-permissible, heavy-duty diesel-powered equipment from exceeding 2.5 grams per hour of dpm emissions as of January 19, 2005.

Similarly, the preamble discussion to § 72.502 specifies that nonpermissible light-duty diesel-powered equipment, other than generators and compressors, introduced into an underground area of a coal mine after the effective date of the final rule must not emit more than 5.0 grams of dpm per hour.

The regulatory text to each of the above provisions contains grammatical errors that may be confusing to the mining community. These errors were inadvertently included at the time of publication. This document corrects these errors, as well as others made in the preamble at the time of publication. These corrections are effective on May 21, 2001, the effective date of the final rule.

Procedural Requirements

MSHA believes that correcting these inadvertent errors in the final rule is not a rule to which the procedural requirements of 5 U.S.C. 553, or the various statutes and executive orders relating to rules, apply. However, if

¹ The effective date for this final rule was delayed in a document published in the **Federal Register** on March 15, 2001 (66 FR 15033).

these corrections were deemed a rule, the notice and comment provisions of the Administrative Procedure Act do not apply based on the good cause exceptions in 5 U.S.C. 553(b)(B) and 553(d)(3). MSHA finds good cause not to provide further notice and comment in that additional notice and comment would be unnecessary and contrary to the public interest because the public was advised in the preamble to the final rule of MSHA's intention regarding each of the above regulatory provisions. Consequently, unnecessary confusion would result if these corrections are not made immediately.

The final rule published on January 19, 2001, contained information collection provisions that require an OMB Control Number. OMB has approved the information collection requirements and assigned OMB Control Number 1219-0124 to the information collection requirements of the final rule.

These corrections contain no additional information collection requirements. In addition, this action is not a "significant regulatory action" within the meaning of Executive Order 12866. Furthermore, this action is not a "major rule" within the meaning of the Small Business Regulatory Enforcement Act, or an "unfunded mandate" within the meaning of Title II of the Unfunded Mandates Reform Act of 1995. Finally, the action will not have Federalism implications within the meaning of Executive Order 13132, and a regulatory flexibility analysis is not required by the Regulatory Flexibility Act.

Accordingly, MSHA makes the following corrections to the final rule published on January 19, 2001.

I. Printing Errors in the Preamble

In the **Federal Register** issue of January 19, 2001 (66 FR 5526), make the following corrections to the preamble:

1. On page 5526, column 1, fourth paragraph of the Summary, line 3, change "coal" to "metal and nonmetal".

2. On page 5672, column 2, first paragraph, line 8, after the word "determining" delete "the permissible fleet." and insert the following: "the total amount of dpm, expressed in grams/hour, produced by the engine over the test cycle described in ISO 8178. The particulate index is determined by calculating the quantity of air required to dilute that particulate to a concentration of 1 mg/m³. The quantity of dpm emitted from the machine is determined by multiplying the quantity of dpm emitted from the engine (gm/hr) by the filtration efficiency of the aftertreatment device (%). Therefore, in a very real sense, the Agency is using a significant portion of the concepts embodied in the particulate index in this final rule.

Why MSHA concluded that the emission limit for permissible equipment should be 2.5 grams per hour. The emission limit was determined with reference to technological and economic feasibility. While mine operators can use a variety of controls to reduce the emissions from a piece of permissible equipment, the two controls that can produce the significant reductions for permissible equipment are cleaner engines and filters. None of the cleaner engines produced in recent years has been approved for permissible applications. Accordingly, MSHA determined it should set the limit at what can be achieved technologically with filtration and the currently approved permissible engines.

As a reference point, MSHA calculated the emission limit that could be achieved if a high-efficiency filter were applied to the engine that produced the most dpm emission in the permissible fleet."

3. On page 5678, column 1, the second paragraph is the heading of a section and should be italicized and read as follows: "*Why the final rule uses a machine-based emission limit instead*

of requiring a high-efficiency filtration system."

4. On page 5681, column 2, the first sentence of the second paragraph is a section heading and should be italicized and read as follows: "*How did MSHA determine the emissions limit for newly introduced light-duty equipment?"*

II. Additional Corrections to the Preamble

In the final regulations published on January 19, 2001 (66 FR 5526), make the following additional corrections to the preamble:

1. On page 5547, column 1, third paragraph, line 7, change "Commerica" to "commercial".

2. On page 5563, change title of the figure from "Figure 5" to "Figure III-1".

3. On page 5565, change title of the figure from "Figure 6" to "Figure III-2".

4. On page 5568, change title of the figure from "Figure 7" to "Figure III-3".

5. On page 5598, column 1, third paragraph, line 5, change "Footnote 42" to "Footnote 44".

6. On page 5639, column 3, first paragraph, lines 5 and 6, change "Figures III-9 and III-10" to "Figures III-5 and Figure III-6".

7. On page 5640, the title of the figure should read Figure III-5" and at the end of the caption insert "(Cohen and Higgins, 1995)".

8. On page 5641, the title of the figure should read "Figure III-6" and at the end of the caption insert "(Cohen and Higgins, 1995)".

9. On page 5655, column 3, fourth paragraph, line 19, change "Figure III-11" to "Figure III-7".

10. On page 5656, column 2, first paragraph, line 1, change "Figure III-11" to "Figure III-7".

11. On page 5656, change the title of the figure from Figure III-11" to "Figure III-7".

12. On page 5683, Table 72.502-1, column 2, after the last line, insert the following:

"450≤kW<560 (600≤hp<750)	0.20 g/kW-hr (0.15 g/bhp-hr)"
"kW≥560 (hp≥750)	0.20 g/kW-hr (0.15 g/bhp-hr)"

13. On page 5685, column 1, fourth paragraph, line 15, insert "other" after the word "from".

14. On page 5685, column 1, fifth paragraph, line 10, change "by the filter" to "by one minus the filter".

15. On page 5687, column 3, first paragraph, line 24, change "within 6 months." to "within 7 calendar days."

16. On page 5687, column 3, first paragraph, line 31, at the end of the sentence insert "of the request."

17. On page 5688, Table I-1, after the last row in the table insert:
"Initial Miner Health Training—60 days"

"Submission of Diesel Equipment Inventory—60 days"

18. On page 5689, column 1, third paragraph, line 15, insert "Light-duty" at the beginning of the sentence.

19. On page 5689, column 1, third paragraph, at the end of the paragraph, insert the following:

"Section 72.510 of the final rule addresses Miners Health Training. It was unchanged from the proposed rule. Miners will be required to be trained on: (1) The health risk associated with exposure to diesel particulate matter; (2) the methods used in the mine to control diesel particulate matter concentrations; (3) identification of the person responsible for maintaining those controls; and (4) actions miners must take to ensure the controls operate as intended. The final rule is the same as

that proposed. Additionally, a record of that training must be maintained and made available to MSHA and the representatives of the miners. This section will take effect 60 days after the effective date of the regulation. The initial miners health training will have to be completed within that time frame and then annually thereafter. MSHA believes that 60 days is ample time to comply with this provision.

Section 72.520 of the final rule addresses the Diesel Equipment Inventory. This section will take effect 60 days after the effective date of the regulation. The initial Diesel Equipment Inventory containing a list of diesel equipment and exhaust emission controls must be completed and submitted within that time frame. Subsequent modifications to the inventory must be submitted within seven calendar days to the District Manager. MSHA believes that 60 days is ample time to comply with this provision. The inventory must be mailed or faxed to the MSHA District Office."

20. On page 5695, column 3, sixth paragraph, line 4, change "number 7" to "number 8."

PART 72—[CORRECTED]

III. Corrections to the Regulatory Text

In the final regulations published on January 19, 2001, (66 FR 5526) make the following corrections to the regulatory text of 30 CFR Part 72:

1. On page 5704, column 3, § 72.500, paragraph (a), line 4, remove the word "not".

2. On page 5704, column 3, § 72.500, paragraph (b), line 4, remove the word "not".

3. On page 5704, column 3, § 72.501, paragraph (a), line 6, remove the word "not".

4. On page 5705, column 1, § 72.501, paragraph (b), line 7, remove the word "not".

5. On page 5705, column 1, § 72.501, paragraph (c), line 7, remove the word "not".

6. On page 5705, column 3, § 72.502, paragraph (a), line 3, remove the word "not".

7. On page 5705, § 72.502, Table 72.502-1, column 2, add the following two entries at the end of the table:
"450≤kW<560 (600≤hp<750)"
"kW≥560 (hp≥750)"

8. On page 5705, § 72.502, Table 72.502-1, column 3, add the following two entries at the end of the table:
"0.20 g/kW-hr (0.15 g/bhp-hr)"
"0.20 g/kW-hr (0.15 g/bhp-hr)"

Signed at Arlington, VA, this 16th day of May, 2001.

David D. Lauriski,

Assistant Secretary for Mine Safety and Health.

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD09-01-003]

RIN 2115-AE47

Drawbridge Operation Regulations; Trail Creek, IN

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is revising the operating regulation governing moveable bridges on Trail Creek in Michigan City, Indiana. This rule will establish twice-an-hour openings for the Franklin Street bridge, mile 0.5, during the peak navigation season, revise the current regulation for the Amtrak bridge, mile 0.85, and establish winter schedules for both bridges.

DATES: This rule is effective June 20, 2001.

ADDRESSES: Comments and material received from the public, as well as all material in the docket CGD09-01-003, are available for inspection or copying at the office of Commander (obr), Ninth Coast Guard District, 1240 East Ninth Street, Room 2019, Cleveland, OH, 44199-2060 between 6:30 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Scot M. Striffler, Project Manager, Ninth Coast Guard District Bridge Branch, at (216) 902-6084.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On February 28, 2001, the Coast Guard published a notice of proposed rulemaking concerning these drawbridge regulations in the **Federal Register** (66 FR 12745). We received no comments concerning the proposed rule. No public hearing was requested and none was held.

Background and Purpose

The owner of the Franklin Street bridge, LaPorte County Highway Department, IN, requested the Coast Guard approve a modified schedule for the bridge to reduce vehicular traffic

delays in the vicinity of the bridge during the peak tourist season and to establish a permanent winter operating schedule. The current regulation for the Amtrak bridge is obsolete and does not accurately reflect current train and vessel operations at that location.

The Amtrak bridge is currently required to open on signal between the hours of 6:30 a.m. and 2:30 p.m., except Sundays, from February 16 through December 14. The bridge is not required to be manned all other times and would be opened within 20 minutes following notification to the Amtrak dispatcher in Chicago. The Coast Guard determined that this schedule did not provide for the reasonable needs of navigation and places undue burden on vessel operators wishing to pass the draw. Amtrak representatives concurred with this finding. Also, the bridge was manned during periods of no vessel traffic on the waterway during winter months, placing an undue burden on the railroad. The revised regulation establishes the requirement for the bridge to open on signal for vessels between March 16 and November 30 each year. Vessel operators will be required to provide at least 12 hours advance notice for openings between December 1 and March 15 each year. This will allow the bridge to be unmanned during periods of no train traffic and during winter months when there is no navigation.

The Franklin Street bridge is located in a highly congested section of Michigan City, and adjacent to a park area that is visited by a large number of residents and tourists between April 1 and December 1 each year. LaPorte County Highway Dept., acting on behalf of the City of Michigan City, asked the Coast Guard to regulate bridge openings to coincide with the park hours to alleviate vehicular traffic congestion in the area, while still providing for the reasonable needs of navigation. This final rule will require the bridge to open on signal for vessels between March 16 and November 30, except between the hours of 6:15 a.m. and 11:15 p.m., Monday through Sunday, the bridge will only be required to open for vessels three minutes before to three minutes after the quarter-hour and three-quarter hour.

This schedule is believed to provide a reasonable balance between the needs of vessel traffic and vehicular traffic through the two drawbridges in Michigan City Harbor.

Discussion of Comments and Changes

The Coast Guard received no comments to the notice of proposed