

**DEPARTMENT OF LABOR**

**Mine Safety and Health Administration**

**30 CFR Part 57**

**RIN 1219-AB29**

**Diesel Particulate Matter Exposure of Underground Metal and Nonmetal Miners**

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

**ACTION:** Proposed rule; extension of comment period, change of public hearing dates.

**SUMMARY:** We (the Mine Safety and Health Administration) are extending the period for comments on the

proposed rule entitled “Diesel Particulate Matter Exposure of Underground Metal and Nonmetal Miners (DPM),” published in the **Federal Register** on September 7, 2005 (70 FR 53280). We are also rescheduling the public hearings on the proposed rule from September 26, 28, and 30, 2005 to January 5, 9, 11, and 13, 2006. We find these actions necessary to provide sufficient time and an orderly process for affected parties to comment on the proposed rule.

By a separate document published in today’s **Federal Register**, we are also temporarily delaying the applicability date for 30 CFR 57.5060(b) published in the **Federal Register** on January 19, 2001 (66 FR 5706) from January 20,

2006 to May 20, 2006, to provide sufficient time to complete the September 7, 2005 proposal to amend the 2001 DPM rule.

**DATES:** Public hearing dates and locations are discussed in the **SUPPLEMENTARY INFORMATION** section below. Public comments and other appropriate data for the record must be received by January 27, 2006, when the post-hearing comment period will close.

**SUPPLEMENTARY INFORMATION:**

**I. Public Hearings**

We will hold four public hearings on the proposed rule. The public hearings will begin at 9 a.m., and will be held on the following dates at the locations indicated:

Date	Location	Phone
January 5, 2006 .....	Mine Safety and Health Administration, 1100 Wilson Boulevard, Conference Room, 25th Floor, Arlington, VA 22209.	(202) 693-9440
January 9, 2006 .....	Little America Hotel, 500 South Main Street, Salt Lake City, UT 84101 .....	(801) 363-6781
January 11, 2006 .....	Clarion Hotel Sports Complex, 9103 E. 39th Street, Kansas City, MO 64133 .....	(816) 737-0200
January 13, 2006 .....	Marriott Louisville Downtown, 280 West Jefferson Street, Louisville, KY 40202 ..	(800) 228-9290

**II. Background**

On September 7, 2005, we proposed a rule to phase in the final DPM limit because we are concerned that there may be feasibility issues for some mines to meet that limit by January 20, 2006. Accordingly, we proposed a five-year phase-in period and noted our intent to initiate a separate rulemaking to convert the final DPM limit from a total carbon limit to an elemental carbon limit. We set hearing dates and a deadline for receiving comments on the September 7, 2005 proposed rule with the expectation that we would complete the rulemaking to phase in the final DPM limit before January 20, 2006.

After publication of the September 7, 2005 proposed rule, we received a

request from the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (USW) for more time to comment on the proposed rule. The USW explained that Hurricane Katrina had placed demands on their resources that will prevent them from participating effectively in the rulemaking under the current schedule for hearings and comments. We recognize the USW’s need to devote resources to respond to the aftermath of Hurricane Katrina and the impact that would have on their participation under the current timetable. We also received a request from the National Stone, Sand and Gravel Association (NSSGA) for additional time to comment on the proposed rule and for an additional

public hearing in Arlington, Virginia. Accordingly, due to requests from the USW and NSSGA, we are extending the deadline for receiving comments until January 27, 2006, and rescheduling the public hearings to January 5, 9, 11, 13, 2006.

**List of Subjects in 30 CFR Part 57**

Diesel particulate matter, Metal and nonmetal, Mine safety and health, Underground miners.

Dated: September 15, 2005.

**David G. Dye,**

*Deputy Assistant Secretary of Labor for Mine Safety and Health.*

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