IN THE MATTER OF:               

REQUEST FOR INFORMATION ON   
EXPOSURE OF UNDERGROUND MINERS 
TO DIESEL EXHAUST            

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Place:  Salt Lake City, Utah   
Date:   July 19, 2016
BEFORE THE U.S. DEPARTMENT OF LABOR
MINE SAFETY AND HEALTH ADMINISTRATION

IN THE MATTER OF:

REQUEST FOR INFORMATION ON
EXPOSURE OF UNDERGROUND MINERS
TO DIESEL EXHAUST

Salt Lake City, Utah

Tuesday,
July 19, 2016

The parties convened, pursuant to the notice, at
11:30 a.m.

APPEARANCES:

MSHA Panel: SHEILA McCONNELL, MARVIN LICHTENFELS,
ALFRED DUCHARME

Also present:

DON ROBY, Health Specialist in Coal Mine Safety
and Health.
DWAYNE BROWN, Diesel Specialist, District 9

Speakers:

DORIAN PIA
JAMES NEWMAN
JIM POULSON

Heritage Reporting Corporation
(202) 628-4888
MS. McCONNELL: Good afternoon. My name is Sheila McConnell, and I am the Director of the Office of Standards, Regulations and Variances for the Mine Safety and Health Administration. I am the moderator for this public meeting on the Agency's Request for Information on Exposure of Underground Miners to Diesel Exhaust, which was published in the Federal Register on June 8th, 2016.

On behalf of the Assistant Secretary, Joseph Main, I want to welcome all of you here today and thank you for your attendance and participation.

Let me introduce the members of our panel. We have Marvin Lichtenfels, our Deputy Administrator, Metal/Nonmetal Mine Safety and Health. In the audience we have Don Roby, our Health Specialist in Coal Mine Safety and Health. On my left we have Al Ducharme from our Office of the Solicitor. Also in our audience we have Dwayne Brown, Diesel Specialist, District 9. And Pamela King, from the Office of Standards, is in the front, and she also works for MSHA.

This is the first of four public meetings. The remaining meetings will take place on July 21st
in Pittsburgh, Pennsylvania; July 26th at MSHA headquarters in Arlington, Virginia; and August 4th in Birmingham, Alabama.

The purpose of this meeting is to receive information from the public that will help MSHA evaluate the Agency's existing standards and policy guidance on controlling miners' exposures to diesel exhaust and to evaluate the effectiveness of the protections now in place to preserve miners' health.

This meeting will be conducted in an informal manner. Speakers and other attendees may present information to the court reporter for the rulemaking record. MSHA will accept comments and other information for the record from any interested party.

If you do not -- if you have not already done so, and this is important, please sign the attendance sheet at the back of the room. We need a separate attendance sheet for this meeting from our public hearing held this morning.

We have copies of the Request for Information and the notice announcing the public meetings in the back of the room. A verbatim transcript can be viewed on regulations.gov and MSHA's website.
Before we hear from you, I would like to provide some background on why MSHA is reviewing our existing standards.

MSHA regulates miners' exposures to diesel exhaust to reduce the health risk and to prevent material impairment of health in miners. Diesel engines are widely used in mining operations because of their high power output and mobility.

Many mine operators prefer diesel powered machines because they are more powerful than most battery-powered equipment and can be used without electrical trailing cables which can restrict equipment mobility.

In March 2012, the National Institute of Occupational Safety and Health and the National Cancer Institute completed the Diesel Exhaust in Miners Study. This epidemiological study was conducted to determine whether breathing diesel exhaust could lead to lung cancer and other health outcomes.

On June 12th, the International Agency for Research on Cancer concluded that there is sufficient evidence of carcinogenicity in humans from diesel exhaust exposure to upgrade its classification of diesel exhaust to a classification of diesel exhaust
as a human carcinogen.

Following the International Agency for Research on Cancer classification of diesel exhaust as a human carcinogen, MSHA issued two Health Hazard Alerts: one on diesel exhaust and diesel particulate matter in underground coal and metal and nonmetal mines, and one on nitrogen dioxide emissions in underground coal mines.

MSHA issued the first health hazard in partnership with OSHA on January 10th, 2013. MSHA issued a second health hazard alert on August 6, 2013. This alert reinforced the dangers of platinum-based particulate filters as a source of increased concentrations of nitrogen dioxide in underground coal mines.

This Request for Information seeks information and data on the effectiveness of our existing standards in controlling miners' exposure to diesel exhaust, including diesel particulate matter.

We specifically request information on a series of questions related to the following topics:

The use of non-permissible light-duty diesel-powered equipment in underground coal mines;

Maintenance of diesel-powered equipment in underground coal mines and recordkeeping.
requirements;

The types and effectiveness of after-treatment and engine technologies used in coal and metal and nonmetal underground mines. MSHA is interested in best practices for selecting and using after-treatment devices.

Under MSHA's existing standards for metal and nonmetal underground mines, total carbon measurements are used as a surrogate for diesel particulate matter when determining miners' exposure. MSHA is seeking information on alternative surrogates, other than total carbon, to estimate a miner's diesel particulate matter exposure.

MSHA is also seeking information on the advances in sampling and analytical technology and other methods for measuring a metal and nonmetal miner's exposure to diesel particulate matter.

MSHA is also interested in data on existing controls that are most effective in metal and nonmetal miners' exposures; and what are the technological challenges and relative costs of reducing diesel particulate matter exposure limit from the existing standard of 160 micrograms of total carbon per cubic meter of air.

MSHA is interested in receiving any other
data or information that may be useful to MSHA in evaluating miners' exposure to harmful diesel exhaust emissions, including the effectiveness of existing control mechanisms for reducing harmful diesel emissions and limiting miners' exposures.

At this time, I do not think anyone has signed up to make a presentation. So I call on our audience to come forward and provide remarks, information, data on our Request for Information.

Just a pause as we wait and gather our thoughts.

We really are in an exploratory fashion with our Request for Information in that we will be best served if you provide any thoughts, information, data on our existing standards, existing controls being used. Are they sufficient to protect miners' health?

Any examples of best practices operators have used in controlling exposures, especially metal and nonmetal mines? I believe that's below the existing exposure limit of 160 micrograms of total carbon.

We don't have any presentations beyond this opening statement.

Go ahead.
(Mr. Pia speaks from the back of the room.)

MS. McCONNELL: Could you -- I'm sorry; I didn't hear you. Could you just -- you can sit down.

You don't have to come to the --

MR. PIA: No, that's fine.

MS. McCONNELL: Unless the -- our court reporter won't be able to hear you.

You can hear him?

THE REPORTER: No. If you want it on the record, he'll need to come up.

MS. McCONNELL: Okay. Yeah, if you're going to have to be on the record -- you don't have to be on the record and I don't have to be on the record --

MR. PIA: I just know that many people probably are going to have more questions. I'm surprised that we haven't. But when announcement come out --

MS. McCONNELL: Right.

MR. PIA: -- where the preliminary -- you know, they mentioned the West Virginia and PA --

MS. McCONNELL: And --

MR. PIA: -- probably something to be gotten into.

MS. McCONNELL: That's right.
MR. PIA: Can you explain or maybe magnify it based off of that principle?

MS. McCONNELL: Well, they have -- their existing -- they have standards that go beyond our existing standards. They have maintenance and recordkeeping requirements that we do not have. And it's Ohio, Pennsylvania, and West Virginia. And so we threw out -- and "threw out" is too colloquial. We included those states in the RFI and the Request for Information specifically to say, should our standards emulate existing state standards that may be more protective in some senses in terms of maintenance and recordkeeping. That's the only reason.

And so if the regulated community doesn't feel that's necessary, then we need to hear that. Or if they feel that it is, then we need to hear that as well.

MR. PIA: Is there any data from those specific states using those standards different from anything that's used anywhere else, as far as --

MS. McCONNELL: We don't have -- we don't have data, and that's what we're asking for. And that's the thing -- so this is so different than what we just went through. Before, in terms of -- and
this is like a rulemaking lesson 101. What we had in
the morning was our suggestions of a -- in a proposed
rule.

In a request for information we are really
looking in a very broad manner and requesting
anything that we can get on the public in terms of
our -- we're evaluating our existing standards. So
we need to hear from you in terms of specific
questions that will help us evaluate whether or
not -- if we move forward and how we move forward.

MR. PIA: That's understood. I just --
what many of the guys do now to comply is pretty
effective, in my mind.

MS. McCONNELL: Uh-huh.

MR. PIA: And I'm just curious to know
what was the strain or what was the idea going to on
a broader approach (inaudible). Do they know that
what they do is actually better other than what's on
paper?

MS. McCONNELL: We don't have any -- yes,
and we don't have any data. So we have two separate
standards for our underground coal and our
metal and nonmetal. They're different. So we -- and
that's what we're asking for. I mean, they went in
that direction, and we need to know if that's
something we should consider. And we are -- we're 
asking that specific question you're asking me, is 
there data.

MR. PIA: So it's basically an open book?

And it's not really --

MS. McCONNELL: This is an open book.

MR. PIA: So in my mind, information you 
need is based off of what we do now and how we feel 
that approach is going to be compared to --

(inaudible).

MS. McCONNELL: Exactly.

MR. PIA: And I think it varies in the way 
that work is done now.

MS. McCONNELL: As it applies to the 
relevant standard in terms of underground coal or 
underground metal and nonmetal.

MR. PIA: So in my mind, some of these 
end-users really need to share their opinions based 
upon this. Because from what I know, West Virginia 
and PA 

(inaudible)...and I'm not saying it's better or worse 
or any different. But it is a different way of doing 
work, and the maintenance of. Is it better or not? 
That's something to be said. Is it beneficial?

Again, that's something to be said. I just thought
maybe you guys had some data or some information from there that we could base off of where we are currently now in understanding.

MS. McCONNELL: No, we don't. We don't have the data you're asking for. We don't have the data. We're asking you for the data.

MR. PIA: Are they willing to give us the information they have?

MS. McCONNELL: I'm hoping that they will comment. They can comment just like the rest of the mining community.

MR. PIA: Okay. Thank you.

MS. McCONNELL: Thank you.

Good afternoon.

MR. NEWMAN: Good afternoon. My name is James Newman. My thoughts are independent, so -- but a few thoughts about looking into this.

First off, in the last few years we've had a lot of new regulations coming out, and I know you're not to that point yet. But an example with the dust regulations and requiring a lot of new technicians, proximity, the new RAs, a lot of this, it's coming on the industry very fast, and the industry is trying to catch up with this rulemaking that is coming faster than anyone can actually keep
up with it.

So what -- my suggestion along those lines is let's take our time on this in figuring it out. Let's not rush it. Let's get time for some of these other regulations to come into play before we throw another regulation in.

Part of the -- a lot of the regulation involves that when a test is taken of the actual diesel, it's right up next to the exhaust, which is not a location that people are really working. I don't know of anyone who goes down and starts breathing up the exhaust.

I mean, it's more similar to what you're finding on the roads today, that it's the -- you're within the range of the vehicle, within 25, 30, 50 feet, you're downwind of it. So I would like -- let's keep in mind that diesel dilution must be a major part of it, because trying to say that one vehicle emits a certain amount of NO₂ or NO, any of those different chemicals -- sorry, I couldn't think of the word -- is not enough. Because if it's diluted, there isn't the issue that you would normally have as if someone was right next to it.

And that's where I would suggest that in the studies done by NIOSH, done by MSHA, to really
look at the different dilution distances and to take that into account. Because how much air you have going through a section, just an example, you have one section that has bare minimum amount of air, it's going to have a bigger effect. If you have another section that's putting three times the air down that section, it's going to have a much smaller effect.

So whether a need is needed on the actual vehicle, I can kind of put that into question, but more looking at the ventilation surrounding it.

MS. McCONNELL: Okay.

MR. NEWMAN: Those were --

MS. McCONNELL: That's very good.

MR. NEWMAN: And just once again, let's take our time on this one. We had a lot of stuff coming through very quickly, and it would be good for the industry to be able to discuss this over a longer period than a few months, and next thing we know, we've got it.

MS. McCONNELL: Okay. Thank you.

Anyone else want to share some thoughts on some of the issues? Any particular interest, coal or metal and nonmetal? We have some broad categories that affect both, which would be any type of after-exhaust treatment and engine technologies.
Anybody have any issues there or data, information?

This is a pause for us all to collect our thoughts.

MR. PIA: Again, can I --

MS. McCONNELL: You can come down.

THE REPORTER: Can he be at the microphone? Because when he was talking before, I was getting maybe half of what he was saying.

MR. PIA: It's good.

The information, like the information that's done during testing at the approval center --

MS. McCONNELL: Right.

MR. PIA: -- you guys review that and see that in comparison to --

MS. McCONNELL: We're only approving for -- you're talking about diesel equipment, right?

MR. PIA: Yes, our package. Diesel emissions, exactly what -- yeah. Those readings are published for public information. Okay. Based off of that information, that's some of the information you're asking us to get for you is when we have an improved power package or a machine, so to speak, those standards are already -- or those readings are posted. Correct?
MS. McCONNELL: So you're an underground coal operator?

MR. PIA: No.

MS. McCONNELL: Okay. You're metal, underground metal?

MR. PIA: I'm actually with a manufacturer.

MS. McCONNELL: Oh. You're with a manufacturer of diesel equipment?

MR. PIA: Yeah. We specialize in diesel emissions for underground use, and whether it be metal, nonmetal, coal or -- but I guess where I'm going is where these readings are now based off whichever engine is known. Do we have -- or you guys's intent is to improve those numbers? Some of those numbers you look at are raw.

MS. McCONNELL: Right. Some of the things that we're asking about is looking also at existing fleet of equipment, which are maybe older engines that are -- light duty is nonpermissibles, meaning that being tested for permissibility. But the use of those, how after-treatment, after-exhaust treatment can be applied -- we're talking now for just underground coal -- could help mitigate exposures. That's a couple of things.
So in terms of you being a new manufacturer and getting permission from our approval center, sometime we're even looking for those that have already been approved and underground.

MR. PIA: Yes. So my question is based off of that. That information you have now, is there an idea or a discussion of how the PA and West Virginia has come up, is the improvement thereof before, you know, anything gets done, where does that -- my question is where does it actually stem from? Where is it coming from, saying that we need to reach a different number? Does that make sense?

MS. McCONNELL: So the reason why we're here is mainly because of recent NIOSH reports that are basically telling us that exhaust -- we've been regulated -- that exhaust now has the ability to cause lung cancer. So it's making us take a second look at our existing -- and we've issued some health haz reports. So we're just taking a second look. And it's not so much what our data has been showing us, because what we've been seeing is some best practices in terms of -- that have, especially in underground metal mines, that exposures have been taken below our existing limit. So --

MR. PIA: You just want to see how much
better we can get?

MS. McCONNELL: Exactly.

THE WITNESS: Yes. So based off of --

MS. McCONNELL: Our existing data -- we'll be looking at our existing data; we'll be hearing what best practices and information that we're getting from the mining community to determine what is -- what benefits can be achieved, what costs would be occurred by making any changes.

MR. PIA: It's just -- where I'm going with this too is a better understanding from you guys, which I'm sure the communication with the approval center is sometimes, and we've seen this many times, is the more restrained or the more components we put on an engine is -- actually, the numbers go south. They don't actually get better, you know. And based off the ruling that we had to follow prior to, our restrictions start right from the start, you know. In other words, like temperature, cooling temperatures, you know. When you get into the above-ground stuff, room temperatures have a lot to do with emissions.

Well, underground we can't go 212s. Well, we're basically restricted right off the bat. So now you're asking us -- I shouldn't say you're asking us;
but now we want to look at different ways of trying
to lower those numbers.

    MS. McCONNELL: Yeah.

    MR. PIA: My suggestion is we may want to
take some look at some previous -- previous
regulations that will allow us to do the technology
that's available now based off those restrictions
that we're not able to.

    MS. McCONNELL: Okay. That makes sense,
and that's fair.

    MR. PIA: And I think that the guys in the
approval center, they have a lot of information,
especially if they will be involved. They've been
through every engine that goes underground, right?

    MS. McCONNELL: Uh-huh.

    MR. PIA: They know the ins and outs.
They know what's been -- and some suggestions have
been up. We're all kind of tied from the regulation
before. So we're going to put new regulations in.
My view, whether it be right or wrong, is if we're
going to be changing things, we need to go back and
look and see what can be changed.

    MS. McCONNELL: And you're looking at the
standards that you have to meet to get approval.

    MR. PIA: Yes.
MS. McCONNELL: Right. And that's something you didn't really specifically ask about. But --

MR. PIA: Some of those restrictions restrict us today --

MS. McCONNELL: Okay.

MR. PIA: -- because we have to fall under these -- under these guidelines. That's what I'm saying --

MS. McCONNELL: Yes.

MR. PIA: -- is some of those would be beneficial here if that's the route we're going to go. You know, like, for instance, PA and West Virginia do a lot of wrap around their hot components to get them under the temperature required.

MS. McCONNELL: And just for the record, could you say what a wrap is?

MR. PIA: A wrap is a -- it's the device, I guess you would use, that would wrap around an exhaust manifold -- a turbo, so to speak, that -- it's an insulating wrap, high-temperature insulating wrap. In previous years post '99 we did a lot of that stuff out west, and it failed. In fact, it caused more issues than it was intended to. We basically said, we're not doing it. So we went to
In PA, West Virginia, I think it had a lot to do with horsepower ratings as well. Had a lot to do with that issue. So again, we have to -- in my mind, we have to look at these previous standards before we want to put more in, because in my mind -- and I don't think I'm alone -- a lot of these restrictions, why we're restricted here if we want to make real improvement.

MS. McCONNELL: Okay.

MR. PIA: But yeah, the wrap is definitely an issue if we have to put wrap around 230 horsepower out West or any other mine. But if you're asking for -- again, you can probably go back in public records from previous meetings post '99 and it will make clear sense.

And I think that's some of -- some of our worries is how much of this do we -- we've already been through and we're going to do it again. So I think we really need to look at some of the lessons we've already learned before we start asking, do we want to do something that PA and West Virginia does with these little horsepowers. It's a different world from east to west type of thing.

Anyway, I really would ask some of you
guys who really deal with this on a day-to-day basis
to give these guys some information based off of our
personal experience. Because if this goes in the
direction, it's going to make a lot of our jobs --
and I'm not going against wanting to improve. We
have to do that. It's a constant improvement. But
you guys know as well as I do, we improve things to
the point to where we're actually hurting ourselves,
literally hurting ourselves.

    That's my two cents on it.

    MS. McConnell: Thank you very much.

    Anything else? So there's other
opportunities to comment. The comment period closes
on September 6th. We have other public hearings.
The transcripts of this and those hearings will be
made available two weeks after they occur, so you can
review what your colleagues and others in your
community have said and provide comments at another
juncture if you wish.

    Okay. So I think we've heard -- unless
I'm told otherwise, I think we don't seem to have any
other speakers. Therefore, I'm going to conclude the
Mine Safety and Health Administration's public
meeting on the Request for Information on Exposure of
Underground Miners to Diesel Exhaust. On behalf of

Heritage Reporting Corporation
(202) 628-4888
Assistant Secretary, Joe Main, we appreciate your participation in this process and encourage you to submit your comments on or before September 6th, 2016.

Oh, would you like to speak?

MR. POULSON: I believe there's a -- the belief is out there that a lot of people have been caught off guard by what's being asked of them, and they didn't have an understanding, because I don't, of what you're requesting in the Request for Information at this time. What I would suggest, or what I would like to request from the Agency is that the time frame for comment be extended.

MS. McCONNELL: Okay.

MR. POULSON: Now that we have a small understanding, and I'm saying small, of your requirements and your request, I believe an extension of time frame for comments is in order, so people can evaluate what they've heard and where we are, and we can assess the situation and then respond.

MS. McCONNELL: Okay. Thank you.

Anyone else?

Okay, thank you again. The meeting is now concluded, and I appreciate your participation.

(The hearing concluded at 12:02 p.m.)
REPORTER'S CERTIFICATE

STATE OF UTAH          )
                        ) ss.
COUNTY OF SALT LAKE    )

I, VICKY McDANIEL, RegisteredMerit
Reporter and Notary Public in and for the State of
Utah, do hereby certify:

That on July 19, 2016, the foregoing
proceedings were reported by me in stenotype and
thereafter transcribed, and that a full, true, and
correct transcription of said proceedings is set
forth in the preceding pages.

WITNESS MY HAND this 26th day of July,
2016.

Vicky McDaniel, CSR, RMR
Notary Public
Residing in Salt Lake County

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