

CHAPTER IX—NATIONAL CRIME PREVENTION AND PRIVACY COMPACT COUNCIL

Part

901 Fingerprint Submission Requirements

PART 901—FINGERPRINT SUBMISSION REQUIREMENTS

Sec.

901.1 Purpose and authority.

901.2 Interpretation of fingerprint submission requirements.

901.3 Approval of delayed fingerprint submission request.

Authority: 42 U.S.C. 14616.

PART 901—FINGERPRINT SUBMISSION REQUIREMENTS

§ 901.1 Purpose and authority.

The Compact Council is established pursuant to the National Crime Prevention and Privacy Compact (Compact), Title 42, U.S.C., Chapter 140, Subchapter II, Section 14616. The purpose of these provisions is to interpret the Compact, as it applies to the required submission of fingerprints, along with requests for Interstate Identification Index (III) records, by agencies authorized to access and receive criminal history records under Public Law 92-544, and to establish protocols and procedures applicable to the III and its use for noncriminal justice purposes.

§ 901.2 Interpretation of fingerprint submission requirements.

(a) Article V of the Compact requires the submission of fingerprints or other approved forms of positive identification with requests for criminal history record checks for noncriminal justice purposes. The Compact Council finds that the requirement for the submission of fingerprints may be satisfied in two ways:

(1) The fingerprints should be submitted contemporaneously with the request for criminal history information, or

(2) For purposes approved by the Compact Council, a delayed submission of fingerprints may be permissible under exigent circumstances.

(b) The Compact Council further finds that a preliminary III name based check may be made pending the receipt of the delayed submission of the fingerprints. The state repository may authorize terminal access to authorized agencies designated by the state, to enable them to conduct such checks. Such access must be made pursuant to the security policy set forth by the state's Control Terminal Agency.

§ 901.3 Approval of delayed fingerprint submission request.

(a) A State may, based upon exigent circumstances, apply for delayed submission of fingerprints supporting requests for III records by agencies authorized to access and receive criminal history records under Public Law 92-544. Such applications must be sent to the Compact Council Chairman and include information sufficient to fully describe the emergency nature of the situation in which delayed submission authority is being sought, the risk to health and safety of the individuals involved, and the reasons why the submission of fingerprints contemporaneously with the search request is not feasible.

(b) In evaluating requests for delayed submissions, the Compact Council must utilize the following criteria:

- (1) The risk to health and safety; and
- (2) The emergency nature of the request.

Upon approval of the application by the Compact Council, the authorized agency may conduct a III name check pending submission of the fingerprints. The fingerprints must be submitted within the time frame specified by the Compact Council.

(c) Once a specific proposal has been approved by the Compact Council, another state may apply for delayed fingerprint submission consistent with the approved proposal, provided that the state has a related Public Law 92-544 approved state statute, by submitting the application to the FBI's Compact Officer.

Dated: May 3, 2001.

Wilbur Rehmann,

Compact Council Chairman.

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DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Part 57

RIN 1219-AB11

Diesel Particulate Matter Exposure of Underground Metal and Nonmetal Miners; Delay of Effective Dates

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

ACTION: Final rule; delay of effective dates and conforming amendments.

SUMMARY: The Mine Safety and Health Administration is delaying for 45 days the effective date of the rule entitled, "Diesel Particulate Matter Exposure of

Underground Metal and Nonmetal Miners," published in the **Federal Register** on January 19, 2001 (66 FR 5706). This temporary delay will allow the Department an opportunity to engage in further negotiations to settle the legal challenges to this rule.

EFFECTIVE DATE: The effective date of the rule amending 30 CFR Part 57 published on January 19, 2001, at 66 FR 5706 and delayed on March 15, 2001 at 66 FR 15032, is further delayed from May 21, 2001, until July 5, 2001. The amendment to § 57.5067 in this final rule will become effective July 5, 2001. However, § 57.5060(a) will continue to apply on July 19, 2002, and § 57.5060(b) will continue to apply on January 19, 2006.

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 addressing the exposure of underground metal and nonmetal miners to diesel particulate matter (dpm). The final rule establishes new health standards for underground metal and nonmetal mines that use equipment powered by diesel engines and requires operators of these underground mines to train miners about the hazards of being exposed to diesel particulate matter. In accordance with the January 20, 2001, memorandum from Andrew H. Card, MSHA announced a 60-day delay of the effective date of certain provisions of the final regulations to permit the Secretary of Labor to further consider the provisions of the rule. An additional delay of 45 days to July 5, 2001 is necessary to give the parties an opportunity to continue negotiations to settle the legal challenge to the rule described below.

On January 29, 2001, Anglogold (Jerritt Canyon) Corp. and Kennecott Greens Creek Mining Company filed a petition for review of the rule in the District of Columbia Circuit. On February 7, 2001, the Georgia Mining Association, the National Mining Association, the Salt Institute, and MARG Diesel Coalition filed a similar petition in the Eleventh Circuit. On March 14, 2001, Getchell Gold Corporation petitioned for review of the rule in the District of Columbia Circuit. The three petitions have been consolidated and are pending in the District of Columbia Circuit. The United Steelworkers of America (USWA) has

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 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).