

review of the amount which the responsible party agrees to reimburse the retailer or distributor for corrections.

(c) Upon a final determination by the Secretary or a State Administrative Agency under § 3282.409, or upon a determination by a court of competent jurisdiction that a manufactured home fails to conform to the standard after such manufactured home is sold or otherwise released by a manufacturer to a distributor or retailer and prior to the sale of such manufactured home by such distributor or retailer to a purchaser, the responsible party shall have the option to either:

(1) Immediately furnish, at the responsible party's expense, to the purchasing distributor or retailer the required conforming part or parts or equipment for installation by the distributor or retailer on or in such manufactured home, and the responsible party shall reimburse such distributor or retailer for the reasonable value of such installation plus a reasonable reimbursement of not less than one per centum per month of the manufacturer's or distributor's selling price, prorated from the date of receipt by certified mail of notice of non-compliance to the date such manufactured home is brought into compliance with the standards, so long as the distributor or retailer proceeds with reasonable diligence with the installation after the part or component is received; or

(2) Immediately repurchase, at the responsible party's expense, such manufactured home from such distributor or retailer at the price paid by such distributor or retailer, plus all transportation charges involved and a reasonable reimbursement of not less than one per centum per month of such price paid prorated from the date of receipt by certified mail of notice of the imminent safety hazard, serious defect, defect or non-compliance to the distributor. The value of such reasonable reimbursements as specified in this paragraph shall be fixed by mutual agreement of the parties or by a court in an action brought under Section 613(b) of the Act.

(d) This section shall not apply to any manufactured home purchased by a retailer or distributor, which has been leased by such retailer or distributor to a tenant for purposes other than resale. In that instance the retailer or distributor has the remedies available to a purchaser under this subpart.

#### **§ 3282.413 Notices, bulletins and other communications.**

Each responsible party shall, at the time of dispatch, furnish to the SAA or

the Secretary a true or representative copy of all notices, bulletins, and other written communications to the retailers or distributors of such responsible party or purchasers or owners of manufactured homes of such responsible parties regarding any serious defect or imminent safety hazard which may exist in any such manufactured homes produced by such manufacturer. Manufacturers shall keep complete records of all communications regarding imminent safety hazards, serious defects, defects, and noncompliances.

#### **§ 3282.414 Supervision of notification and correction actions.**

(a) The SAA shall be responsible for assuring that notifications are sent to all owners, purchasers, retailers, or distributors of whom the responsible party has knowledge under § 3282.211 or otherwise as required by these regulations, and the SAA shall be responsible for assuring that the required corrections are carried out by auditing the records required by § 3282.410.

(b) The SAA or Secretary to which the report required by § 3282.410(c) is sent shall be responsible for assuring through oversight that remedial actions described in the report have been carried out as described in the report.

(c) The SAA of the state in which an affected manufactured home is located may inspect that manufactured home to determine whether any required correction is carried out to the approved plan or, if there is no plan, to the standards or other approval obtained by the responsible party.

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## **DEPARTMENT OF LABOR**

### **Mine Safety and Health Administration**

## **DEPARTMENT OF HEALTH AND HUMAN SERVICES**

### **Centers for Disease Control and Prevention**

#### **30 CFR Part 72**

**RIN 1219-AB18**

#### **Determination of Concentration of Respirable Coal Mine Dust**

**AGENCIES:** Mine Safety and Health Administration (MSHA), Department of Labor, National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control

and Prevention, Department of Health and Human Services.

**ACTION:** Proposed rule; reopening of the rulemaking record; extension of comment period.

**SUMMARY:** This document reopens the rulemaking record and extends the comment period for the proposed rule addressing Determination of Concentration of Respirable Coal Mine Dust, (Single Sample) published in the **Federal Register** on July 7, 2000 and reopened for public comment on March 6, 2003.

The Agencies have decided to reopen the rulemaking record and further extend the comment period in order to obtain further information on Personal Dust Monitors (PDMs), a new technology which is currently being tested by NIOSH.

The rulemaking record and comment period will remain open until further notice is published in the **Federal Register**. All comments received will be entered into the rulemaking record.

**DATES:** The rulemaking record for the proposed rule, published on July 7, 2000 and reopened for comment on March 6, 2003, will remain open until further notice is published in the **Federal Register**.

**ADDRESSES:** You may use mail, facsimile (fax), or electronic mail to send us your comments. Clearly identify them as comments and send them (1) by mail to MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Blvd., Room 2313, Arlington, Virginia 22209-3939; (2) by fax to (202) 693-9441; or (3) by electronic mail to: [comments@msha.gov](mailto:comments@msha.gov).

**FOR FURTHER INFORMATION CONTACT:** Marvin W. Nichols, Jr., Director, Office of Standards, Regulations and Variances, MSHA; phone: (202) 693-9440; facsimile: (202) 693-9441; e-mail: [nichols-marvin@msha.gov](mailto:nichols-marvin@msha.gov).

You can request a copy of this reopening and extension of comment period notice in an alternate format, such as a large print version, an electronic file or a file on a disk. This reopening and extension of comment period notice is available on MSHA's Internet site, <http://www.msha.gov>, at the "Statutory and Regulatory Information" icon.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Rulemaking Background**

In 1972, the Secretary of Interior and the Secretary of Health, Education, and Welfare issued a joint finding under the Federal Coal Mine Safety and Health Act of 1969. The finding concluded that a single, full-shift measurement of

respirable dust would not, after applying valid statistical techniques, accurately represent the atmospheric conditions to which the miner is continuously exposed (37 FR 3833).

In 1994, the Secretary of Labor and the Secretary of Health and Human Services tentatively concluded that the 1972 joint finding was incorrect. Therefore, on February 18, 1994, the Secretary of Labor and the Secretary of Health and Human Services published a proposed Joint Notice of Finding in the **Federal Register** (59 FR 8537). That Joint Notice proposed to find that a single, full-shift exposure measurement will accurately represent the atmospheric conditions with regard to the respirable coal mine dust concentration during the shift on which it was taken, and to rescind the 1972 finding by the Secretary of the Interior and the Secretary of Health, Education and Welfare. Also on February 18, 1994, MSHA published in the **Federal Register** (59 FR 8356) a separate notice announcing how MSHA intended to implement its new enforcement procedure utilizing single samples, and to solicit public comment on this procedure.

On February 3, 1998, after a notice and comment procedure extending over three and one-half years, including three public hearings (in Salt Lake City, Utah; Washington, District of Columbia, and Morgantown, West Virginia), MSHA and NIOSH published a final Notice of Finding, and MSHA published an enforcement policy for the Notice of Finding in the **Federal Register** (63 FR 5664 and 5687, respectively).

In May 1998, The National Mining Association (NMA) and the Alabama Coal Association petitioned the United States Court of Appeals for the 11th Circuit to review the 1998 Notice of Finding. On September 4, 1998, the United States Court of Appeals for the 11th Circuit issued a decision based on procedural grounds to vacate the Notice of Finding in the case of *National Mining Association v. Secretary of Labor*, (153 F.3d 1264).

In response to the 11th Circuit Court's decision, the Department of Labor and the Department of Health and Human Services published in the **Federal Register** a Notice of Proposed Rulemaking (NPRM), Determination of Concentration of Respirable Coal Mine Dust (65 FR 42068) on July 7, 2000.

In that document, the Secretaries proposed a new mandatory health standard in 30 CFR part 72 that stated that a single, full-shift measurement would accurately represent atmospheric conditions to which a miner is exposed during such shift. The proposed rule

would rescind the 1972 Joint Finding. The record of the 1998 final Joint Finding was incorporated into the record for this rulemaking along with new data and information. Those items and all additional data and information were added to the rulemaking docket and made available to the public. A notice of public hearing and close of record was also published in the **Federal Register** (65 FR 42185) on July 7, 2000.

During August 2000, three public hearings were conducted in Morgantown, West Virginia; Prestonsburg, Kentucky; and Salt Lake City, Utah. Transcripts of those proceedings were made available to the public. The close of the rulemaking record was originally scheduled for August 24, 2000. In response to requests from commenters, the comment period was extended until September 8, 2000 (65 FR 49215).

On March 6, 2003 (68 FR 10940), the Secretaries published a notice of reopening addressing the July 7, 2000 proposed rule, (65 FR 42068), Determination of Concentration of Respirable Coal Mine Dust. The Secretaries reopened the rulemaking record to provide interested parties an additional opportunity to comment on any issue relevant to the July 2000 proposed rule; and to solicit comment on new data and information added to the record. The reopening addressed the background, MSHA's current enforcement policy, health effects, quantitative risk assessment, technological feasibility, economic feasibility, compliance costs and benefits, references and supporting documentations.

In May 2003, the Agencies held six public hearings in Washington, Pennsylvania; Charleston, West Virginia; Evansville, Indiana; Lexington, Kentucky; Birmingham, Alabama; and Grand Junction, Colorado. The hearings were attended by over 500 members of the public. In response to requests from the mining community the Agencies extended the post-hearing comment period from June 4, 2003 to July 3, 2003 (68 FR 32005, May 29, 2003). This notice reopens the rulemaking record and extends the comment period until further notice is published in the **Federal Register**.

## II. Reasons for Reopening the Rulemaking Record

The Agencies decided to reopen the rulemaking record and extend the comment period on the proposed rule after careful consideration of comments during the May 2003 public hearings concerning the preliminary success of

in-mine tests on a prototype of the Personal Dust Monitor (PDM).

The rulemaking record and comment period will remain open during which time:

- The in-mine testing of the pre-production prototype PDMs at mines in Pennsylvania, West Virginia, Alabama, and Utah is completed;

- NIOSH and MSHA commit \$150,000 each for further testing contingent upon completion and positive assessment of the in-mine testing; and

- Information is obtained to assist in controlling and monitoring respirable coal mine dust and preventing Black Lung disease.

For all the reasons stated herein, the rulemaking record and comment period for the proposed rule is hereby reopened until further notice is published in the **Federal Register**.

A notice extending the comment period on the proposed rule Verification of Underground Coal Mine Operators' Dust Control Plans and Compliance Sampling for Respirable Dust, (68 FR 10784, 68 FR 32005), was published in the **Federal Register** on July 3, 2003.

Dated: August 6, 2003.

**Elaine L. Chao,**

*Secretary, Department of Labor.*

Dated: August 6, 2003.

**Tommy G. Thompson,**

*Secretary, Department of Health and Human Services.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 194

[FRL-7543-1]

### Waste Characterization Program Documents Applicable to Transuranic Radioactive Waste From the Idaho National Engineering and Environmental Laboratory Advanced Mixed Waste Treatment Project for Disposal at the Waste Isolation Pilot Plant

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of availability; opening of public comment period.

**SUMMARY:** The Environmental Protection Agency (EPA, or "we") is announcing an inspection for the week of August 18, 2003, at the Idaho National Engineering and Environmental Laboratory (INEEL) Advanced Mixed Waste Treatment Project (AMWTP). With this notice, we