

rollover contribution that consisted of investment in the contract is includible in D's gross income.

*Example 3.* Assume the facts are the same as in *Example 2* except that the distribution from the designated Roth account is after the end of the 5-taxable-year period of participation used to determine qualified distributions from a designated Roth account. If a distribution is made from the Roth IRA prior to the expiration of the 5-taxable-year period used to determine qualified distributions from a Roth IRA, the distribution would not be a qualified distribution within the meaning of section 408A(d)(2), and any amount of the distribution that exceeded the amount rolled in is includible in D's gross income.

Q-5. Can amounts distributed from a Roth IRA be rolled over to a designated Roth account as defined in A-1 of § 1.402A-1?

A-5. No. Amounts distributed from a Roth IRA may be rolled over or transferred only to another Roth IRA and are not permitted to be rolled over to a designated Roth account under a section 401(a) or section 403(b) plan. The same rule applies even if all the amounts in the Roth IRA are attributable to a rollover distribution from a designated Roth account in a plan.

Q-6. When is this § 1.408A-10 applicable?

A-6. The rules of § 1.408A-10 apply for taxable years beginning on or after January 1, 2006.

**Mark E. Matthews,**

*Deputy Commissioner for Services and Enforcement.*

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## 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; close of record.

**SUMMARY:** The Mine Safety and Health Administration is extending the period for comment 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).

**DATES:** We must receive your comments by February 17, 2006.

**ADDRESSES:** (1) To submit comments, please include RIN: 1219-AB29 in the subject line of the message and send them to us at either of the following addresses.

Federal e-Rulemaking portal: Go to <http://www.regulations.gov> and follow the online instructions for submitting comments.

E-mail: [zzMSHA-comments@dol.gov](mailto:zzMSHA-comments@dol.gov). If you are unable to submit comments electronically, please identify them by RIN: 1219-AB29 and send them to us by any of the following methods.

- Fax: 202-693-9441.
- Mail to: MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Blvd., Rm. 2350, Arlington, VA 22209-3939.
- Hand delivery or courier to: MSHA, 1100 Wilson Blvd., Receptionist, 21st floor, Arlington, VA 22209-3939.

(2) We will post all comments on the Internet without change, including any personal information they may contain. You may access the rulemaking docket via the Internet at <http://www.msha.gov/reginfo.htm> or in person at MSHA's public reading room at 1100 Wilson Blvd., Rm. 2349, Arlington, VA.

**FOR FURTHER INFORMATION CONTACT:**

Robert F. Stone, Acting Director, Office of Standards, Regulations and Variances, at (202) 693-9440.

**SUPPLEMENTARY INFORMATION:**

#### I. Background

On September 7, 2005, the Mine Safety and Health Administration (MSHA) 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 would prevent them from participating effectively in the rulemaking under the current schedule for hearings and comments. We

recognized 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 published a notice on September 19, 2005 (70 FR 55018) that changed the public hearing dates from September 2005 to January 2006. We also extended the public comment period from October 14, 2005 to January 27, 2006. Public hearings were held on the proposed rule in Arlington, Virginia on January 5, 2006; Salt Lake City, Utah on January 9, 2006; Kansas City, Missouri on January 11, 2006; and Louisville, Kentucky on January 13, 2006. The rulemaking record was scheduled to close on January 27, 2006.

#### II. Extension of Comment Period

Recently, the National Mining Association and the Methane Awareness Resource Group (MARG) Diesel Coalition requested that the comment period be extended an additional 30 days beyond January 27, 2006 to allow for more time to prepare their comments. Additionally, we received a request from the National Institute for Occupational Safety and Health for a three week extension. We have determined that a three week extension of the comment period is sufficient to allow additional public comment on the proposed rule. Therefore, all post-hearing comments must be received on or before the close of the record on February 17, 2006.

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

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

Dated: January 24, 2006.

**Robert M. Friend,**

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

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