

UNITED STATES OF AMERICA

BEFORE THE

MINE SAFETY AND HEALTH ADMINISTRATION

DEPARTMENT OF LABOR

**A PUBLIC HEARING**

In the Matter of:

LOW- AND MEDIUM-VOLTAGE DIESEL-POWERED

ELECTRICAL GENERATORS

PROPOSED RULE

Hearing Room B  
Sheraton Birmingham Hotel  
2101 Ralph Arrington Boulevard  
Birmingham, Alabama

Tuesday, November 16, 2004  
10:55 a.m.

MARVIN W. NICHOLS, JR., Presiding  
ROBERT PHILLIPS  
ARLIE MASSEY  
RONALD FORD

C O N T E N T S

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P R O C E E D I N G S

MR. NICHOLS: Good morning again.

My name is Marvin Nichols, and I'm the Director of the Office of Standards, Regulations, and Variances, and on behalf of Dave Lauriski, the Assistant Secretary of Labor for MSHA, I would like to welcome you to this public hearing.

We are starting this public hearing a bit early to accommodate some schedules, but the Federal Register notice states that it will begin at one o'clock, and this panel will be available at one o'clock in case there are additional people that show up because the register notice said that.

This is the second of four hearings. We held the first hearing on November the 4th in Salt Lake City, Utah. The other hearings will be held on the following dates at the following locations:

November the 18th in Lexington, Kentucky, that's this coming Thursday; and

November the 30th in Morgantown, West Virginia.

The purpose of these hearings is to obtain input from the public on a proposed rule that was published in the Federal Register on June 25th, 2004.

That rule would allow the use of low- and medium-voltage diesel-powered generators as an alternative means of powering electrical equipment. These generators are portable, and are used to power electrical equipment in, out,

1 and around underground coal mines.

2           Copies of the Federal Register notice containing  
3 the proposed rule are available at the registration table.

4           Let me introduce this panel:

5           To my left is Bob Phillips. Bob is a health and  
6 safety specialist at our headquarters office in Arlington,  
7 Virginia;

8           To my right is Arlie Massey with the approval and  
9 certification center; and

10           At the end of the table is Ron Ford, an economist  
11 from our office, the standards office in Arlington, Virginia;  
12 and

13           At the table is Pam King. Pam is a reg specialist  
14 also in my office in Arlington.

15           The hearing is being held in accordance with  
16 Section 101 of the Federal Mine Safety and Health Act of  
17 1977.

18           As is the practice of MSHA, formal rules of  
19 evidence will not apply. Therefore, cross-examination of  
20 hearing panel members will not be allowed, but the panel may  
21 explain and clarify provisions of the proposed rule.

22           As moderator of this public hearing, I reserve the  
23 right to limit the amount of time each speaker is given, as  
24 well as the questions of the hearing panel.

25           Those of you who have notified us in advance of

1 your intent to speak will be allowed to make your  
2 presentations first. I will call the speakers in the order  
3 that the requests were made.

4           Following these presentations, others who request  
5 an opportunity to speak will be allowed to do so.

6           We invite all interested parties to present their  
7 views at this hearing, and if you are sitting in the audience  
8 now and wish to speak, please sign in at the registration  
9 table.

10           We will remain in session today until everyone who  
11 desires to speak has an opportunity to do so.

12           Also, if you are not speaking today, we would like  
13 for you to sign the attendance sheet so we have an accurate  
14 attendance record of today's hearing.

15           We will accept written comments and information at  
16 this hearing from any interested party, including those who  
17 are not speaking.

18           When I call on you to speak, please come to the  
19 speaker's table and begin your presentation by identifying  
20 yourself and your affiliation for the record.

21           If you have a prepared statement or any supporting  
22 documents that you would like to submit for the record,  
23 please leave a copy here with me today.

24           You can give written comments to us in this hearing  
25 today, or you can send them to MSHA's Office of Standards

1 electrically, by fax mail, by regular mail, or hand-carry,  
2 using the address information in the Federal Register notice.

3           The post-hearing comment period on this proposed  
4 rule will end on December the 10th, 2004, and submissions  
5 must be received by that date.

6           A verbatim transcript of this hearing will be made  
7 part of the record, and it will be posted on MSHA's Web site.

8       If you would like a copy sooner, you can make your own  
9 arrangements with the court reporter, and the company  
10 information for the court reporter is at the registration  
11 table.

12           Before the speakers begin their testimony, I would  
13 like to give you some background on the proposed rule we are  
14 addressing here today.

15           Currently Title 30 of the Code of Federal  
16 Regulations, Section 75.701, and Section 75.901 establish the  
17 grounding requirements for electrical equipment and low- and  
18 medium-voltage three-phase circuits.

19           Over the last thirteen years mine operators have  
20 been using portable low- and medium-voltage diesel-powered  
21 electric generators as an efficient means for providing a  
22 portable source of power to move electrical equipment.

23           However, when using these generators mine operators  
24 are unable to comply with the electrical protection  
25 requirements of both these standards.

1           To address their inability to comply, mine  
2 operators have requested petitions for modification from  
3 existing MSHA standards.

4           From January 1990 through October 2003 there were  
5 63 petitions requested and granted under 75.701 and 75.901  
6 affecting 56 underground coal mines.

7           We may grant a petition for modification of an  
8 existing standard as long as the alternate method proposed by  
9 the mine operator achieves the same measure of protection  
10 afforded miners at all times under the existing standard, or  
11 the application of the existing standard reduces safety for  
12 miners.

13           When MSHA grants a petition for modification, it  
14 applies only to the individual mine. Before we granted these  
15 petitions we evaluated the use of diesel-powered electrical  
16 generator equipment. We recognized that diesel-powered  
17 electrical generator equipment with sensitive electrical  
18 circuit protection reduces fire, explosion, and shock  
19 hazards.

20           When we granted the petitions we included in the  
21 approval the requirements that the operator must follow to  
22 maintain the protection afforded by our existing standards.

23           The three major provisions of the proposed rule  
24 would require, one, the grounding resistor to limit ground  
25 fault current to 0.5 amperes under a ground fault condition;

1           Two, the grounded phase protection device to cause  
2 the circuit interrupting device protecting the electrical  
3 circuits to open and shut down the diesel-powered generator  
4 when not more than 90 milliamperes of fault current is  
5 detected by the system; and

6           Three, the use of equipment testing devices and  
7 procedures that are designed to facilitate safe testing of  
8 the diesel-powered electrical circuit prior to moving each  
9 piece of equipment or performing work.

10           We believe that this proposed rule increases miner  
11 safety by limiting the amount of voltage and current that  
12 miners can be exposed to under ground-fault conditions, and  
13 by reducing the possibility of a fire, shock, or burn hazard  
14 through the safety features for personnel and equipment  
15 required by the standards.

16           Our first presenter is James Blankenship with  
17 United Mineworkers of America.

18           MR. BLANKENSHIP: James Blankenship, United  
19 Mineworkers, Local 2245, District 20, employed at Jim Walter  
20 Resources Number 4 mines.

21           I really didn't have a whole lot of time to go over  
22 this with the other one looking me in the face, and I will  
23 send written comments in by the 10th.

24           There are a couple of things I wanted to discuss  
25 today, or bring out today on the record.



1 I still think there's a fire hazard here. These  
2 diesel generators will be set off at our mines to run  
3 probably pumps off by their self, only be looked at once a  
4 shift, be off in areas where nobody travels except the  
5 pumpers, and I think there's a definite fire hazard there.

6 There's also in my opinion an electric shock hazard  
7 in grounding to the frame. An individual could possibly be  
8 electrocuted walking up and touching the frame of the diesel  
9 generator.

10 Like I said about the fire hazard, if they're left  
11 unattended I don't think the regs addressed anything how they  
12 would be checked after or looked after.

13 Like I said, I'll give written comments in more  
14 detail by the 10th. I really didn't have a chance to go over  
15 all this.

16 Those are some of the issues I just by glancing  
17 through it last night that I felt needed to be addressed.

18 Personally I'm against it at our location, I don't  
19 think we need them, I think it would be more of a hazard than  
20 a help with individuals that work in those mines, and the  
21 cost saving again I'm confused why MSHA is worried about cost  
22 savings to operators instead of safety aspects of the mines  
23 or the miners.

24 Like I say, we'll get the comments in depth to you  
25 by the 10th in writing.

1 I appreciate it.

2 MR. NICHOLS: Okay, James. Any questions of James?

3 [No response]

4 MR. NICHOLS: James is the only person we had  
5 signed up to give testimony.

6 Is there anyone else in the audience that would  
7 like to speak on the portable diesel generator rule?

8 [No response]

9 MR. NICHOLS: Okay. Seeing no one, we will go off  
10 the record and come back on at noon and see if there's anyone  
11 that shows up for the -- I'm going to come back on the  
12 record at noon, and then we'll break for lunch, and then  
13 we'll come back at one.

14 Okay, thanks.

15 [The hearing was recessed.]

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MR. NICHOLS: I am Marvin Nichols, we are back on the record for the portable diesel generator rule, and we have one person signed up to give testimony, and that person is Larry Jordan with Jim Walter Resources.

MR. JORDAN: My name is Larry Jordan, I work with Jim Walter Resources, I'm Diesel Coordinator Maintenance Instructor.

I am like a lot of others, I was just informed yesterday that I would be at this meeting, so I really didn't have time to read over the preamble and what's in the book.

I have read over it, I scanned over it between when we left earlier and came back from lunch.

What I want to do is just make a statement. I want to go on record as stating that Jim Walter Resources needs to be in a position to use underground diesel generators when needed.

As underground mining conditions change and the need to develop areas where there is no power access the need for portable underground diesel generators may be required.

I believe that all safety issues can be addressed to meet the proposed rule and the concerns of the United Mineworkers of America.

Any other issues that may arise between now and December the 10th we will address those and submit those in

1 a comment form.

2 So that's really all I've got to say right now. I  
3 just wanted us to be in a position if we ever needed to use  
4 underground diesel equipment or diesel generators we could do  
5 that.

6 MR. NICHOLS: Okay, Larry. Thanks.

7 Are there others that want to give testimony?

8 [No response]

9 MR. NICHOLS: There are none, so we will go off the  
10 record until two o'clock.

11 First let me ask does anyone have any questions of  
12 Larry.

13 [No response]

14 MR. NICHOLS: Okay. Thanks, Larry.

15 MR. JORDAN: Thank you.

16 MR. NICHOLS: We are off the record, and we will  
17 come back on at two o'clock.

18 [Recess.]

19 2:00 p.m.

20 MR. NICHOLS: This is Marvin Nichols, it's two  
21 o'clock, we are back on the record for the portable diesel  
22 generator rule.

23 We do not have anyone present to give us testimony,  
24 so we are going to close the record and close the hearing.

25 I want to thank the court reporter Len, and all the

1 MSHA panel.

2           That's it. Thanks.

3           [At 2:01 p.m., Tuesday, November 16, 2004 the  
4 hearing was concluded.]

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