

is not incomplete as to all interests in the property and section 2702 applies. A's annuity interest (A's right to receive the annuity for 10 years, or until A's prior death) is a retained interest that is a qualified annuity interest under paragraphs (b) and (d) of this section. In addition, because A has retained the power to revoke B's interest, B's interest is treated as an interest retained by A for purposes of section 2702. B's successive annuity interest otherwise satisfies the requirements for a qualified interest contained in paragraph (d) of this section, but for A's power to revoke. The term of B's interest is specified in the governing instrument and is fixed and ascertainable at the creation of the trust, and B's right to receive the annuity is contingent only on B's survival, and A's power to revoke. Following the expiration of A's interest, the annuity is to be paid for a 10-year term or for B's (the successor holder's) life, whichever is shorter. Accordingly, A is treated as retaining B's revocable qualified annuity interest pursuant to § 25.2702-2(a)(6). Because both A's interest and B's interest are treated as qualified interests retained by A, the value of the gift is the value of the property transferred to the trust less the value of both A's qualified interest and B's qualified interest (subject to A's power to revoke), each valued as a single-life annuity. Further, if A revokes B's interest prior to the commencement of that interest, A is treated as making a completed gift at that time to A's child. The amount of the gift would be the present value of B's interest determined under section 7520 and the applicable regulations, as of the date the interest is revoked. See § 25.2511-2(b) and (f).

*Example 9.* (i) A transfers property to an irrevocable trust, retaining the right to receive 6 percent of the initial net fair market value of the trust property for 10 years, or until A's prior death. If A survives the 10-year term, the trust terminates and the trust corpus is payable to A's child. If A dies prior to the expiration of the 10-year term, the annuity is payable to B, A's spouse, if then living, for the balance of the 10-year term, or until B's prior death. A retains the right to revoke B's interest. Upon expiration of B's interest (or upon A's death if A revokes B's interest), the trust terminates and the trust corpus is payable to A's child. As is the case in Example 8, A's retained annuity interest (A's right to receive the annuity for 10 years, or until A's prior death) is a qualified annuity interest under paragraphs (b) and (d) of this section. However, B's interest does not meet the requirements of paragraph (d) of this section. The term of B's annuity is not fixed and ascertainable at the creation of the trust, because it is not payable for the life of B, a specified term of years, or for the shorter of those periods. Rather, B's annuity is payable for an unspecified period that will depend upon the number of years left in the original term after A's death. Further, B's annuity is payable only if A dies prior to the expiration of the 10-year term. Thus, payment of B's annuity is not dependent solely on B's survival, but rather is dependent on A's failure to survive.

(ii) Accordingly, the amount of the gift is the fair market value of the property

transferred to the trust reduced by the value of A's qualified interest (A's right to receive the stated annuity for 10 years or until A's prior death). B's interest is not a qualified interest and is thus valued at zero under section 2702.

\* \* \* \* \*

**Par. 5.** Section 25.2702-7 is amended to add two new sentences at the end of that section. The addition reads as follows:

**§ 25.2702-7 Effective dates.**

\* \* \* Section 25.2702-2(a)(5), the second and third sentences of § 25.2702-2(a)(6), § 25.2702-3(d)(2), the first two sentences of § 25.2702-3(d)(4), the last sentence of § 25.2702-3(e), *Example 5*, the last two sentences of § 25.2702-3(e), *Example 6*, and § 25.2702-3(e), *Examples 8* and *9*, are effective for trusts created on or after July 26, 2004. However, the Internal Revenue Service will not challenge any prior application of the changes to *Examples 5* and *6* in § 25.2702-3(e).

**Mark E. Matthews,**

*Deputy Commissioner for Services and Enforcement.*

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**BILLING CODE 4830-01-P**

## DEPARTMENT OF LABOR

### Mine Safety and Health Administration

#### 30 CFR Part 75

**RIN 1219-AA98**

#### Low- and Medium-Voltage Diesel-Powered Electrical Generators

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

**ACTION:** Proposed rule; notice of public hearings; close of comment period.

**SUMMARY:** We are announcing that we will hold four public hearings on the proposed rule to amend the existing standards concerning protection of low- and medium-voltage three-phase circuits used underground to allow the use of low- and medium-voltage diesel-powered electrical generators as an alternative means of powering electrical equipment. The rule would eliminate the need for mine operators to file petitions for modification to use these generators to power electrical equipment while maintaining the existing level of protection for miners.

The hearings will be held on the same days, in the same locations, as the MSHA public hearings for the High Voltage Continuous Mining Equipment Standards (HVCM) proposed rule. These

hearings will follow the HVCM hearings, and will begin in the afternoon. The announcement of the HVCM hearings was published in a separate **Federal Register** notice on Friday, July 16, 2004 (69 FR 42812).

**DATES:** All comments on the proposed rule, including post-hearing comments, must be received by October 14, 2004, the close of the comment period.

The public hearing dates and locations are listed in the Public Hearings section under **SUPPLEMENTARY INFORMATION**. Individuals or organizations wishing to make oral presentations for the record should submit a request at least 5 days prior to the hearing dates. However, commenters do not need to submit a request in advance in order to speak at the hearing.

**ADDRESSES:** You may submit comments, by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- E-mail: [Comments@MSHA.gov](mailto:Comments@MSHA.gov).

Include RIN 1219-AA98 in the subject line of the message.

- Fax: (202) 693-9441.

- Mail/Hand Delivery/Courier:

MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Blvd., Room 2313, Arlington, Virginia 22209-3939.

Instructions: All submissions must reference MSHA and RIN 1219-AA98, (the Regulatory Information Number for this rulemaking).

Docket: To access comments received, go to <http://www.MSHA.gov> or MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Blvd., Room 2350, Arlington, Virginia. All comments received will be posted without change to <http://www.msha.gov>, including any personal information provided.

**FOR FURTHER INFORMATION CONTACT:**

Marvin W. Nichols, Jr., Director, Office of Standards, Regulations, and Variances, MSHA, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209-3939. Mr. Nichols can be reached at [nichols.marvin@dol.gov](mailto:nichols.marvin@dol.gov) (Internet E-mail), (202) 693-9440 (voice), or (202) 693-9441 (facsimile). This notice is available on the Internet at <http://www.msha.gov/REGSINFO.HTM>.

**SUPPLEMENTARY INFORMATION:**

**I. Background Information**

On June 25, 2004, (69 FR 35992) we published a proposed rule in the **Federal Register** that would amend the existing standards concerning protection of low- and medium-voltage three-phase circuits used underground to allow the use of low- and medium-

voltage diesel-powered electrical generators as an alternative means of powering electrical equipment. The generators are portable and are used to power electrical equipment when moving the equipment in, out, and around the mine and when performing work in areas where permissible equipment is not required. The rule would eliminate the need for mine operators to file petitions for

modification to use these generators to power electrical equipment while maintaining the existing level of protection for miners.

Since publication of the proposed rule, we have received a request for a hearing on the rule.

**II. Public Hearings**

We will hold four public hearings on the same days, in the same locations, as the MSHA public hearings for the

HVCM standards. The hearings addressing HVCM will begin at 9 a.m. local time each day; the hearings addressing this proposed rule, Low- and Medium-Voltage Diesel Powered Electrical Generators, will be held on the same days, beginning at 1 p.m. and will end after the last speaker testifies. The hearings will be held on the following dates at the locations indicated:

Date	Location	Telephone
September 21, 2004 .....	Sheraton Birmingham, 2101 Richard Arrington Jr. Blvd. North, Birmingham, Alabama 35203.	(205) 324-5000
September 23, 2004 .....	Sheraton Suites Lexington, 2601 Richmond Road, Lexington, Kentucky 40509 ...	(859) 268-0060
September 28, 2004 .....	Little America Hotel, 500 S Main Street, Salt Lake City, Utah 84101 .....	(801) 363-6781
September 30, 2004 .....	Hyatt Regency Pittsburgh International Airport, 1111 Airport Road, Pittsburgh, Pennsylvania 15231.	(724) 899-1234

The hearings will begin with an opening statement from MSHA, followed by an opportunity for members of the public to make oral presentations. You do not have to make a written request to speak; however, speakers who make a request in advance will speak first. Any unallotted time will be made available for commenters making same-day requests for oral presentations. These commenters will speak in the order they sign in. At the discretion of the presiding official, the time allocated to speakers for their presentation may be limited. Speakers and attendees may also present information to the MSHA panel for inclusion in the rulemaking record.

The hearings will be conducted in an informal manner. The hearing panel may ask questions of speakers. Although formal rules of evidence or cross examination will not apply, the presiding official may exercise discretion to ensure the orderly progress of the hearing and may exclude irrelevant or unduly repetitious material and questions.

A verbatim transcript of the proceedings will be included in the rulemaking record. Copies of this transcript will be available to the public, and can be viewed at <http://www.msha.gov>.

We will accept post-hearing written comments and other appropriate data for the record from any interested party, including those not presenting oral statements, prior to the close of the October 14, 2004 post-hearing comment period.

Dated: July 21, 2004.  
**Dave D. Lauriski**,  
*Assistant Secretary for Mine Safety and Health.*  
 [FR Doc. 04-16903 Filed 7-23-04; 8:45 am]  
**BILLING CODE 4510-43-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 271**

[FRL-7791-4]

**Maryland: Final Authorization of State Hazardous Waste Management Program Revision**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** Maryland has applied to EPA for final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA proposes to grant final authorization to Maryland. In the "Rules and Regulations" section of this **Federal Register**, EPA is authorizing the changes by an immediate final rule. EPA did not make a proposal prior to the immediate final rule because we believe this action is not controversial and do not expect comments that oppose it. We have explained the reasons for this authorization in the preamble to the immediate final rule. Unless we receive written comments which oppose this authorization during the comment period, the immediate final rule will become effective on the date it establishes, and we will not take further action on this proposal. However, if we receive comments that oppose this action, or portions thereof, we will

withdraw the relevant portions of the immediate final rule, and they will not take effect. We will then respond to public comments in a later final rule based on this proposal. You may not have another opportunity for comment. If you want to comment on this action, you must do so at this time.

**DATES:** Send your written comments by August 25, 2004.

**ADDRESSES:** Submit your comments, identified by FRL-7791-4 by one of the following methods:

1. Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
2. E-mail: [johnson.carol@epamail.epa.gov](mailto:johnson.carol@epamail.epa.gov).
3. Mail: Carol Johnson, Mailcode 3WC21, RCRA State Programs Branch, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103-2029.
4. Hand Delivery: At the previously-listed EPA Region III address. Such deliveries are only accepted during normal hours of operation, and special arrangements should be made for deliveries of boxed information.

You may inspect and copy Maryland's application from 8:30 a.m. to 4:30 p.m., Monday through Friday at the following addresses: Maryland Department of the Environment, Waste Management Administration, Hazardous Waste Program, 1800 Washington Blvd., Suite 645, Baltimore, Maryland 21230-1719, Phone number: (410) 537-3345, attn: Ed Hammerberg, and the EPA Region III, Library, 2nd Floor, 1650 Arch Street, Philadelphia, PA 19103-2029, Phone number: (215) 814-5254.

**Instructions:** Direct your comments to FRL-7791-4. EPA's policy is that all comments received will be included in the public docket without change,