

Some of the mining industry and explosive manufacturers challenged the final rule. In response to their concerns, MSHA issued Program Policy Letter (PPL) No. P94-IV-3 on September 30, 1994. This current policy provides information to the mining community regarding the proper usage of the IME-22 Container as a "laminated partition" under §§ 56/57.6000, §§ 56/57.6133, §§ 56/57.6201. The Agency also interpreted the "continuous loading" requirements of §§ 56/57.6306; clarified the meaning of the term "good condition" as it applies to vehicles used in §§ 56/57.6202; clarified the application of §§ 56/57.6501 regarding double trunklines or loop systems when using low energy detonating cord with inhole delays; and interpreted §§ 56/57.6602(e) on static electricity dissipation during loading as it applies to the use of plastic hole liners.

On January 5, 1995, MSHA published a proposed rule, (60 FR 1866) which included revisions to §§ 56/57.6000 concerning the definition of "laminated partition;" §§ 56/57.6133 concerning powder chests; §§ 56/57.6201 concerning separation of transported explosive material; §§ 56/57.6302 concerning separation of explosive material; §§ 56/57.6306 concerning loading, blasting and security; and §§ 56/57.6602 concerning static electricity dissipation during loading. Also, the proposal would add a new provision, §§ 56/57.6905 to address hangup blasting which was merged with requirements for separation of explosive material; would delete the security provisions of existing §§ 56/57.6313 and would incorporate them into proposed §§ 56/57.6306; and would clarify in the preamble to the final rule the meaning of the term "good condition" as used in §§ 56/57.6202. The standards in part 56 apply to all surface metal and nonmetal mines; those in part 57 apply to all underground and all surface areas of underground metal and nonmetal mines.

The comment period closed on March 6, 1995. MSHA received numerous comments concerning the proposed provisions, including requests for public hearings.

MSHA is conducting these rulemaking hearings pursuant to section 101 of the Federal Mine Safety and Health Act of 1977 (Mine Act), 30 U.S.C. 801 *et. seq.* The purpose of the hearings is to give the public further opportunity to submit comments on the proposal and to discuss their concerns. The hearings will be conducted in an informal manner by a panel of MSHA officials. Although formal rules of evidence or cross-examination will not

apply, the presiding MSHA official may exercise discretion to ensure the orderly progress of the hearings and may exclude irrelevant or unduly repetitious material and questions.

The hearings will begin with an introduction from MSHA, followed by an opportunity for members of the public to make oral presentations. The hearing panel will be available to address relevant questions. At the discretion of the presiding official, speakers may be limited to a maximum of 20 minutes for their presentations. In the interests of conducting productive hearings, MSHA will schedule speakers in a manner that allows all points of view to be heard as effectively as possible.

Verbatim transcripts of the proceedings will be prepared and made part of the rulemaking record. Copies of the hearing transcripts will be made available to the public for review.

MSHA will also accept for the record additional written comments and other related data from any interested party, including those who do not present oral statements. Written comments and data submitted to MSHA will be included in the rulemaking record. To allow for the submission of any post-hearing comments, the record will remain open until August 18, 1995.

B. Issues

Commenters posed various questions about the proposed rule. Of greatest concern to commenters are the issues discussed below.

1. §§ 56/57.6000 Definition of Laminated Partition
§§ 56/57.6133 Powder Chests
§§ 56/57.6201 Separation of Transported Explosive Material.

Existing §§ 56/57.6000 defines the composition of a "laminated partition," that may be used to separate detonators from other explosive materials under .6133 and .6201. The existing definition also states that the IME-22 Container meets the criteria of a "laminated partition." This definition and the nominal dimensions of the partition were derived from the Institute of Makers of Explosives' (IME) Safety Library Publication No. 22, "Recommendations for the Safe Transportation of Detonators in a Vehicle with other Explosive Materials," 1985.

IME objected to allowing the container to be used in a manner that is inconsistent with their recommendations for proper and safe usage. IME states that the IME-22 Container should not be used as a

"laminated partition" when certain detonators are transported with explosives or blasting agents in the same vehicle or stored together in powder chests.

Existing §§ 56/57.6133(b) allows the storage of detonators with other explosives in the same powder chests, as long as they are separated by 4-inches of hardwood, laminated partition, or equivalent. Similarly, existing §§ 56/57.6201 (a)(2) and (b)(2) allow the transportation of detonators with explosives as long as they are separated by 4-inches of hardwood, laminated partition, or equivalent. These current regulations make no distinction between different classes of detonators.

MSHA proposes minor revisions to the existing definition of "laminated partition." The proposal specifies the construction requirements for a "laminated partition" as described in the IME Safety Library Publication No. 22 (May 1993), and the Generic Loading Guide for the IME-22 Container (October 1993). For compliance with §§ 56/57.6133(b) and §§ 56/57.6201 (a)(2) and (b)(2), the definition would allow alternative construction as well.

In addition, the proposal would revise the existing requirements for Powder chests, §§ 56/57.6133, and Separation of transported explosive material, §§ 56/57.6201, and require that whenever operators use the IME-22 Container under these regulations, they must follow the manufacturer's instructions included in the IME Safety Library Publication No. 22, "Recommendations for the Safe Transportation of Detonators in a Vehicle with other Explosive Materials," (May 1993) and the "Generic Loading Guide for the IME-22 Container," (October 1993).

Some commenters objected to MSHA's reference to the IME publications because the mining industry has not had an opportunity to comment on these publications. These commenters state that the IME publications are recommendations rather than federal regulations intended for the mining industry.

Regarding the term "equivalent" as used in proposed §§ 56/57.6133 and §§ 56/57.6201, some commenters requested that the Agency define the term, or specify in the regulation that any material or combination of materials providing the same degree of protection against the initiating force of detonators is equivalent to 4-inches of hardwood. At this stage, MSHA believes it would be appropriate to make this clarification in the preamble to the final regulation.

Another commenter requested that MSHA clarify the intent of the phrase "4 inches of hardwood." At this stage,