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DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification of Application of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and 30 CFR Part 44 govern the application, processing, and disposition of petitions for modification. This notice is a summary of petitions for modification submitted to the Mine Safety and Health Administration (MSHA) by the parties listed below to modify the application of existing mandatory safety standards codified in Title 30 of the Code of Federal Regulations.

DATES: All comments on the petitions must be received by the Office of Standards, Regulations and Variances on or before [Insert date 30 days from the date of publication in the FEDERAL REGISTER].

ADDRESSES: You may submit your comments, identified by "docket number" on the subject line, by any of the following methods:

1. Electronic Mail: zzMSHA-comments@dol.gov. Include the docket number of the petition in the subject line of the message.
2. Facsimile: 202-693-9441.

3. Regular Mail or Hand Delivery: MSHA, Office of Standards, Regulations and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209-3939, Attention: George F. Triebsch, Director, Office of Standards, Regulations and Variances. Persons delivering documents are required to check in at the receptionist's desk on the 21st floor. Individuals may inspect copies of the petitions and comments during normal business hours at the address listed above.

MSHA will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments.

FOR FURTHER INFORMATION CONTACT: Barbara Barron, Office of Standards, Regulations and Variances at 202-693-9447 (Voice), barron.barbara@dol.gov (E-mail), or 202-693-9441 (Facsimile). [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION:

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

(1) An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or

(2) That the application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, the regulations at 30 CFR 44.10 and 44.11 establish the requirements and procedures for filing petitions for modification.

II. Petitions for Modification

Docket Number: M-2012-074-C.

Petitioner: Brooks Run Mining Company, 208 Business Street, Beckley, West Virginia 25801.

Mine: Marianna No. 1 Mine, MSHA I.D. No. 46-09391, located in Wyoming County, West Virginia.

Regulation Affected: 30 CFR 75.1914(a) (Maintenance of diesel-powered equipment)

Modification Request: The petitioner requests a modification of the existing standard for the Marianna No. 1 Mine for duration of the approved slope development plan. The petitioner states that:

(1) Development of a slope from the surface to the Pocahontas No. 3 coal seam is currently in process at its Marianna No. 1 Mine operation. A proposed change to the existing approved slope plan has been reviewed by MSHA. This proposal entails making two 90 degree turns in the projection of the slope as identified in drawing No. 1 attached to the petition.

(2) Benefits of this change would include eliminating the necessity for developing vertical shafts through old works of the Sewell coal seam, a task that involves

drilling and developing the shaft into a pillar block identified as left from the previous mining. Additionally, the current proposal allows for the construction of a shaft with elevator access and portal facilities, constituting a significant and permanent safety benefit.

(3) This proposed change would require the installation of two belt drives, one located at each of the turns. These drives and associated control units would have to be permissible under the current standard. Time allowances for acquisition of the necessary permissible motors currently prohibit the execution of this proposal due to the development schedule and the need to obtain a coinciding projection approval from MSHA before committing to the new projection.

(4) To alleviate the conflict noted above and facilitate approval and implementation of the alternative plan and its associated safety benefits, insofar, as it requires that permissible equipment be employed in the slope and that the drives and associated control units be permissible, the petitioner proposes to:

(a) Install each nonpermissible drive on a separate air-split as shown in drawing No. 2 attached to the petition.

(b) Install methane monitors at the locations identified in drawing No. 2 attached to the petition (mirror image for second turn would apply). The monitors will be set to alarm both visually and audibly upon detection of methane concentration of 0.8 percent or more. If an alarm occurs, all power will be removed from the slope until ventilation adjustments are made and the methane concentration is below 0.5 percent.

To examine or obtain a copy of the petition and drawings, contact MSHA using the information in the "For Further Information Contact" section of this notice.

The petitioner asserts that the proposed alternative method would achieve the results of the existing standard insofar as it requires that permissible equipment be employed in the slope and requires that the drives and associated control units be permissible.

Docket Number: M-2012-075-C.

Petitioner: Mountain Coal Company, LLC, P.O. Box 591, 5174 Highway 133, Somerset, Colorado 81434.

Mine: West Elk Mine, MSHA I.D. No. 05-03672, located in Gunnison County, Colorado.

Regulation Affected: 30 CFR 75.500(d) (Permissible electric equipment).

Modification Request: The petitioner requests that Stipulation #1 of the Proposed Decision and Order for its previous petition for modification, docket number M-95-184-C, be amended. The petitioner states that:

(1) Stipulation #1 limits the nonpermissible low-voltage or battery-powered electronic testing and diagnostic equipment to laptop computers, oscilloscopes, vibration analysis machines, insulation testers (meggers), and cable fault detectors (impulse generators and detectors).

(2) Since the Proposed Decision and Order was granted, additional and more technologically advanced low-voltage and/or battery-powered electronic testing and

diagnostic equipment has been developed. Such equipment can and has been safely used in or inby the last open crosscut in underground coal mines, thereby enhancing the safety of the miners.

(3) With the advance of this proven and effective technology, the petitioner proposes to amend Stipulation #1 of its previous petition to include point temperature probes; infrared temperature devices and recorders; insulation testers (meggers); voltage, current, and power measurement devices; ultrasonic measuring devices; electronic component testers and electronic tachometers in addition to the currently approved equipment.

The petitioner asserts that with the existing terms and conditions of the petition for modification, the use of additional nonpermissible electronic testing and diagnostic equipment will at all times guarantee no less than the same measure of protection afforded by the existing standard.

Docket Number: M-2012-076-C.

Petitioner: Mountain Coal Company, LLC, P.O. Box 591, 5174 Highway 133, Somerset, Colorado 81434.

Mine: West Elk Mine, MSHA I.D. No. 05-03672, located in Gunnison County, Colorado.

Regulation Affected: 30 CFR 75.1002 (Installation of electric equipment and conductors; permissibility); Previously 30 CFR 75.1002-1(a) (Location of other electric equipment; requirements for permissibility).

Modification Request: The petitioner requests that Stipulation #1 of the Proposed Decision and Order for its previous petition for modification, docket number M-97-148-C, be amended. The petitioner states that:

(1) Stipulation #1 limits the nonpermissible low-voltage or battery-powered electronic testing and diagnostic equipment to laptop computers, oscilloscopes, vibration analysis machines, insulation testers (meggers), and cable fault detectors (impulse generators and detectors).

(2) Since the Proposed Decision and Order was granted, additional and more technologically advanced low-voltage and/or battery-powered electronic testing and diagnostic equipment has been developed. Such equipment can and has been safely used within 150 feet of pillar workings in underground coal mines, thereby enhancing the safety of the miners.

(3) With the advance of this proven and effective technology, the petitioner proposes to amend Stipulation #1 of its previous petition to include point temperature probes; infrared temperature devices and recorders; insulation testers (meggers); voltage, current, and power measurement devices; ultrasonic measuring devices; electronic component testers and electronic tachometers in addition to the currently approved equipment.

The petitioner asserts that with the existing terms and conditions of the petition for modification, the use of additional nonpermissible electronic testing and diagnostic

equipment will at all times guarantee no less than the same measure of protection afforded by the existing standard.

Docket Number: M-2012-077-C.

Petitioner: CEI Anthracite, 603 South Church Street, Hazelton, Pennsylvania 18201.

Mine: CEI Anthracite Mine, MSHA I.D. No. 36-08598, located in Luzerne County, Pennsylvania.

Regulation Affected: 30 CFR 77.308 (Structures housing other facilities; use of partitions).

Modification Request: The petitioner requests a modification of the existing standard to eliminate the use of explosion-proof enclosures for their thermal dryer units. The petitioner states that:

(1) Anthracite dust has consistently proven to be non-explosive and to have low volatility.

(2) The indirect heat thermal dryer provides protection by eliminating the risk of explosion.

(3) The thermal dryer is equipped with safety devices that automatically shut the heat source off while allowing airflow to continue, effectively cooling the entire system.

(4) All of these devices are monitored prior to start up each day and controls are calibrated every month to assure correct reading by sensors.

(5) Given the sensitivity of these safety devices, greater protection would be provided than if an explosion-proof enclosure is used.

(6) The Carmen Dryer was originally installed in January 1996. In 1997, the question of an enclosure was raised and it was decided at that point that an enclosure was not necessary.

(7) In 2006, the petitioner purchased the assets of Lang Filter Media (previous owner) and continued operating until the present. This system has never malfunctioned or presented any safety issues, and has operated through MSHA inspections during the past 14 years without any risk of explosion.

(8) The petitioner has always kept the safety of the employees at the forefront and will continue to do so. There is no likelihood of an explosion based on research provided.

The petitioner further states that this plant has run over 200,000 tons of material since its construction. Safety is the first consideration, and the petitioner believes that this regulation is inappropriate for their system.

Docket Number: M-2012-078-C.

Petitioner: Mountaintop Anthracite Inc., 1550 Crestwood Drive, Mountaintop, Pennsylvania 18707.

Mine: Mountaintop Anthracite Inc. Mine, MSHA I.D. No. 36-09445, located in Luzerne County, Pennsylvania.

Regulation Affected: 30 CFR 77.307 (Thermal dryer; location and installation; general).

Modification Request: The petitioner requests a modification of the existing standard to eliminate the use of explosion-proof enclosures for their thermal dryer units. The petitioner states that:

(1) The indirect heat thermal dryer (manufactured by Carmen Industries) used in the dryer process provides protection with the equipped safety features and controls on the dryer unit. The biggest feature eliminates the risk of explosion by automatically shutting off the heat sources while allowing airflow to continue, effectively cooling the entire system.

(2) All of the controls are checked each day at start up and monitored throughout the day. The controls are calibrated monthly ensuring that the sensors are representing accurate readings.

The petitioner further states that anthracite dust is considered non-explosive and, given the sensitivity of the safety devices and the close monitoring of the controls, protection of the dryer process meets and potentially exceeds that of an explosion-proof enclosure.

Docket Number: M-2012-079-C.

Petitioner: CEI Anthracite, 603 South Church Street, Hazelton, Pennsylvania 18201.

Mine: CEI Anthracite Mine, MSHA I.D. No. 36-08598, located in Luzerne County, Pennsylvania.

Regulation Affected: 30 CFR 77.307 (Thermal dryer; location and installation; general).

Modification Request: The petitioner requests a modification of the existing standard to eliminate the use of explosion-proof enclosures for their thermal dryer units. The petitioner states that:

(1) The indirect heat thermal dryer provides protection by eliminating the risk of explosion.

(2) The thermal dryer is equipped with safety devices that automatically shut the heat source off while allowing airflow to continue, effectively cooling the entire system.

(3) All of these devices are monitored prior to start up each day, and controls are calibrated every month to assure correct reading by sensors.

(4) Given the sensitivity of the safety devices, greater protection would be provided than if an explosion-proof enclosure is used.

(5) The Carmen Dryer was originally installed in January 1996. In 1997, the question of an enclosure was raised and it was decided at that point that an enclosure was not necessary.

(6) In 2006, the petitioner purchased the assets of Lang Filter Media (previous owner) and continued operating until present. This system has never malfunctioned or presented any safety issues and has operated through MSHA inspections during the past 14 years without any violation referring to risk of explosion.

(7) The petitioner has always kept the safety of the employees at the forefront and will continue to do so. There is no likelihood of an explosion based on research provided.

The petitioner further states that this plant has run over 200,000 tons of material since its construction. Safety is the first consideration, and the petitioner believes that this regulation is inappropriate for their system.

Docket Number: M-2012-080-C.

Petitioner: Mountaintop Anthracite Inc., 1550 Crestwood Drive, Mountaintop, Pennsylvania 18707.

Mine: Mountaintop Anthracite Inc. Mine, MSHA I.D. No. 36-09445, located in Luzerne County, Pennsylvania.

Regulation Affected: 30 CFR 77.308 (Thermal dryer; location and installation; general).

Modification Request: The petitioner requests a modification of the existing standard to eliminate the use of explosion-proof enclosures for their thermal dryer units. The petitioner states that:

(1) The indirect heat thermal dryer (manufactured by Carmen Industries) used in the dryer process provides protection with the equipped safety features and controls on the dryer unit. The biggest feature eliminates the risk of explosion by automatically shutting off the heat sources while allowing airflow to continue, effectively cooling the entire system.

(2) All of the controls are checked each day at start up and monitored throughout the day. The controls are calibrated monthly ensuring that the sensors are representing accurate readings.

The petitioner further states that anthracite dust is considered non-explosive and, given the sensitivity of these safety devices and the close monitoring of the controls, protection of the dryer process meets and potentially exceeds the protection provided by an explosion-proof enclosure.

Dated: May 17, 2012

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George F. Triebsch
Director
Office of Standards, Regulations and Variances

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