Billing Code: 4510.43-P

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-2012-006-M.

Petitioner: Vulcan Construction Materials, L.P., 1 Glenlake Parkway, N.E., Suite 600, Atlanta, Georgia 30328.

Mine: Manassas Quarry, MSHA I.D. No. 44-00159, located in Prince William County, Virginia; Jack Plant, MSHA I.D. No. 44-00109, located in Dinwiddie County, Virginia; Lawrenceville Quarry, MSHA I.D. No. 44-00150, located in Brunswick County, Virginia; Skippers Quarry, MSHA I.D. No. 44-00136, located in Greensville County, Virginia; Hanover Quarry, MSHA I.D. No. 36-00015, located in Adams County, Pennsylvania; Pacolet Quarry, MSHA I.D. 38-00004, located in Spartanburg County, South Carolina; Enka Quarry, MSHA I.D. 31-00084, located in Buncombe County, North Carolina; Rockingham Quarry, MSHA I.D. No. 31-00198, located in Richmond County, North Carolina; Barin Quarry, MSHA I.D. No. 09-00072, located in Muscogee County,

Georgia; and Macon Quarry, MSHA I.D. No. 09-00015, located in Monroe County, Georgia.

Regulation Affected: 30 CFR 56.14100(b) (Safety defects; examination, correction and records).

Modification Request: The petitioner requests a modification of the existing standard to permit designated locomotives to be operated with four functional track sanders. This includes two sets of sanders located on opposite ends of each locomotive regardless of the amount of sanders that may have been present originally or could be added. The petitioner also requests that sand not be present in the system unless deemed necessary for the sand to be used to assist with traction to allow the locomotive to move. This change would serve as direct guidance for Vulcan and MSHA in the future. This would be a great benefit for everyone involved since there is no standard that specifically addresses this issue in 30 CFR Part 56. This petition, if approved, would not detract from worker safety. The petitioner states that:

1. This is a complex issue and requires significant background information and material.

2. The purpose of this petition is to obtain relief from MSHA's new position that track sanders on a locomotive are for braking and therefore a safety item.

3. The manufacturer's intent of the track sanders are an optional feature designed to assist in locomotive traction when starting from a stopped position.

4. Vulcan East Region is addressing multiple locomotives and locations to avoid further use of time and resources for both parties related to this topic.

5. Vulcan and the rail industry consider the track sanders as an operational device rather than a safety item.

The petitioner further states that the safety of employees and anyone that is exposed to their operations is of the utmost importance, and believes that the request in this petition would not distract from worker safety.

Docket Number: M-2012-007-M.

Petitioner: Rio Grande Mining Company, 97423 US Hwy 67, HCR67 Box 109, Marfa, Texas 79843.

Mine: Shafter Mine, MSHA I.D. No. 41-02905, located in Presidio County, Texas.

Regulation Affected: 30 CFR 49.2(c) (Availability of mine rescue teams).

Modification Request: The petitioner requests a modification of the existing standard to permit a miner with three months experience as a team member, instead of a miner with one year of experience.

Further, the petitioner states that due to the remote location of the mine it has become burdensome to keep two certified teams with five members and one alternate. The shortest response time for the next closest mine rescue team is 4 hours for a team in New Mexico and 6 hours for a team in Texas. The petitioner states that surface and underground personnel who do not have one year mining experience would have the following general certifications:

1. DOT-First Responder, EMT, EMT-1, Paramedics.

2. Certified surface firefighters.

3. Personnel would still be trained with a Certified MSHA Instructor within the three months.

4. With small and remote mines, three months would be an adequate amount of time for miners (Mine Rescue Team Members) to learn the mine and the mining methods.

The petitioner asserts that the alternative method will at all times provide the same measure of protection as the existing standard.

Docket Number: M-2012-008-M.

Petitioner: U.S. Silica Company, 2496 Hancock Road, Berkeley Springs, West Virginia 25411.

Mine: Berkeley Plant, MSHA I.D. No. 46-02805, located in Morgan County, West Virginia.

Regulation Affected: 30 CFR 56.13020 (Use of compressed air).

Modification Request: The petitioner requests a modification of the existing standard to permit the miners to use a clothes cleaning booth for cleaning their clothes. The petitioner proposes to incorporate the National Institute for Occupational Safety and Health (NIOSH) Clothes Cleaning Process and Manufacturer's Instruction Manuals into their MSHA Part 46 Training Plan and train affected miners in the process. The petitioner states that:

1. Miners entering the booth will examine valves and nozzles for damage malfunction and close the door fully before opening the air valve. Any defects will be repaired prior to the booth being used.

2. Miners entering the booth will wear eye protection; ear plugs or muffs for hearing protection; a full-face or half-mask respirator that meets or exceeds the minimum requirements of a N95 filter to which the miner has been fit-tested for respiratory protection. As an alternative, the use of a full-face respirator will meet the requirement for both respiratory and eye protection. A sign will be conspicuously posted requiring the use of personal protective equipment when entering the booth.

3. Airflow through the booth will be at least 2,000 cubic feet per minute to maintain negative pressure during use of the cleaning system, to prevent contamination of the environment outside the booth. Airflow will be in a downward direction to move contaminants away from the miner's breathing zone.

4. Air pressure through the spray manifold will be limited to 30 pounds per square inch or less. A lock box with a single plant manager controlled key will be used to prevent regulator tampering.

5. The air spray manifold will consist of schedule 80 steel pipes that have failure pressure of 1,300 pounds per square inch, capped at the base, and actuated by an electrically controlled ball valve at the top.

6. Air nozzles must not exceed 30 pounds per square inch gauge.

7. The uppermost spray of the spray manifold will be located below the booth users breathing zone. Some type of mechanical device will be used to cover the upper air nozzles to meet the specific height of the user.

8. Air nozzles will be guarded to eliminate the possibility of incidental contact that could create mechanical damage to the air nozzles during the clothes cleaning process.

9. The petitioner will conduct periodic maintenance checks of the booth according to the recommendations contained in the Manufacturer's Instruction Manual.

10. The air receiver tank supplying air to the manifold system will be of sufficient volume to permit no less than 20 seconds of continuous clothes cleaning time.

11. An appropriate hazard warning sign will be posted on the booth that states, at a minimum, Compressed Air and Respirable Dust.

12. A pressure relief valve designed for the booth's air reservoir will be installed.

13. The mine will exhaust dust-laden air from the booth into a local exhaust ventilation system or duct outside the facility while ensuring there is no re-entrainment back into the structure.

The petitioner further states that:

1. The proposed alternative method provides a direct reduction of a miners' exposure to respirable dust, thus reducing their health risks while providing no less a degree of safety than that provided by the standard.

2. The proposed alternative method has been jointly developed between Unimin Corporation and the National Institute for Occupational Safety and Health (NIOSH) and successfully tested by the NIOSH.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded by the existing standard.

Dated: September 24, 2012

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

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