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 No: M-2013-024-C.

Petitioner: Wolf Run Mining Company, 99 Edmiston Way, Buckhannon, West Virginia 26201.

Mine: Sentinel Mine, MSHA I.D. No. 46-04168, located in Barbour County, West Virginia.

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

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of compliance to allow the use of battery-powered nonpermissible low-voltage or battery-powered nonpermissible electronic testing and diagnostic equipment in or inby the last open crosscut in the Sentinel Underground Coal Mine. The petitioner states that:

(1) The nonpermissible low-voltage or battery-powered electronic testing and diagnostic equipment would be limited to laptop computers, oscilloscopes, vibration analysis machines, cable fault detectors, point temperature probes, infrared temperature devices, signal analyzer devices, ultrasonic measuring devices, electronic component testers and electronic tachometers.

(2) Permissible approved voltage measuring instruments are available and will be used when possible.

(3) All other testing and diagnostic equipment used in or inby the last open crosscut will be permissible.

(4) Other testing and diagnostic equipment may be used if approved in advance by the District Manager.

(5) All nonpermissible low-voltage or battery-powered non-permissible electronic testing and diagnostic equipment to be used in or inby the last open crosscut will be examined prior to use by a certified person to assure that the equipment is being maintained in a safe operating condition.

(6) The results of the examinations will be recorded and retained for one year and made available to MSHA on request.

(7) A qualified person as defined in 30 CFR 75.151 will continuously monitor for methane immediately before and during the use of nonpermissible electronic testing and diagnostic equipment in or inby the last open crosscut.

(8) Nonpermissible electronic testing and diagnostic equipment will not be used if methane is detected in concentrations at or above one percent. When methane is detected at such levels while the nonpermissible electronic testing and diagnostic equipment is being used, the equipment will be deenergized immediately and the nonpermissible electronic equipment withdrawn outby the last open crosscut.

(9) All hand-held methane detectors will be MSHA-approved and maintained in permissible and proper operating condition as defined in 30 CFR 75.320.

(10) Coal production will cease, except for the time necessary to trouble-shoot under actual mining conditions. Coal may remain in or on the equipment in order to test and diagnose the equipment under load. This change will require production to cease except during actual testing. Accumulations of coal and combustible materials referenced in 30 CFR 75.400 will be removed before testing begins to provide additional safety to the miners.

(11) Nonpermissible electronic test and diagnostic equipment will not be used to test equipment when float coal dust is in suspension.

(12) All electronic and diagnostic equipment will be used in accordance with the manufacturer's recommended safe use procedures.

(13) Qualified personnel engaged in the use of nonpermissible electronic testing and diagnostic equipment will be properly trained to recognize the hazards and limitations associated with the use of nonpermissible electronic testing and diagnostic equipment in areas where methane could be present.

(14) The nonpermissible electronic testing and diagnostic equipment will not be put into service until MSHA has initially inspected the equipment and determined that it is in compliance with all the above terms and conditions.

(15) Cables supplying power to low-voltage test and diagnostic equipment will only be used when permissible testing and diagnostic equipment are unavailable.

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

Docket No: M-2013-025-C.

Petitioner: Wolf Run Mining Company, 99 Edmiston Way, Buckhannon, West Virginia 26201.

Mine: Sentinel Mine, MSHA I.D. No. 46-04168, located in Barbour County, West Virginia.

Regulation Affected: 30 CFR 75.507-1(a) (Electric equipment other than power-connection points; outby the last open crosscut; return air; permissibility requirements).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of compliance to allow the use of nonpermissible low-voltage or battery-powered nonpermissible electronic testing and diagnostic equipment in return airways in the Sentinel Underground Coal Mine. The petitioner states that:

(1) The nonpermissible low-voltage or battery-powered electronic testing and diagnostic equipment would be limited to laptop computers, oscilloscopes, vibration analysis machines, cable fault detectors, point temperature probes, infrared temperature devices, signal analyzer devices, ultrasonic measuring devices, electronic component testers and electronic tachometers.

(2) Permissible approved voltage measuring instruments are available and will be used when possible.

(3) All other testing and diagnostic equipment used in return airways will be permissible.

(4) Other testing and diagnostic equipment may be used if approved in advance by the District Manager.

(5) All nonpermissible low-voltage or battery-powered non-permissible electronic testing and diagnostic equipment to be used in return airways will be examined prior to use by a certified person to assure that the equipment is being maintained in a safe operating condition.

(6) The results of the examinations will be recorded and retained for one year and made available to MSHA on request.

(7) A qualified person as defined in 30 CFR 75.151 will continuously monitor for methane immediately before and during the use of nonpermissible electronic testing and diagnostic equipment in return airways.

(8) Nonpermissible electronic testing and diagnostic equipment will not be used if methane is detected in concentrations at or above one percent. When methane is detected at such levels while the nonpermissible electronic testing and diagnostic equipment is being used, the equipment will be deenergized immediately and the nonpermissible electronic equipment withdrawn out of the return airways.

(9) All hand-held methane detectors will be MSHA-approved and maintained in permissible and proper operating condition as defined in 30 CFR 75.320.

(10) Coal production will cease, except for the time necessary to trouble-shoot under actual mining conditions. Coal may remain in or on the equipment in order to test and diagnose the equipment under load. This change will require production to cease except during actual testing. Accumulations of coal and combustible materials referenced in 30 CFR 75.400 will be removed before testing begins to provide additional safety to the miners.

(11) Nonpermissible electronic test and diagnostic equipment will not be used to test equipment when float coal dust is in suspension.

(12) All electronic and diagnostic equipment will be used in accordance with the manufacturer's recommended safe use procedures.

(13) Qualified personnel engaged in the use of nonpermissible electronic testing and diagnostic equipment will be properly trained to recognize the hazards and limitations associated with the use of nonpermissible electronic testing and diagnostic equipment in areas where methane could be present.

(14) The nonpermissible electronic testing and diagnostic equipment will not be put into service until MSHA has initially inspected the equipment and determined that it is in compliance with all the above terms and conditions.

(15) Cables supplying power to low-voltage test and diagnostic equipment will only be used when permissible testing and diagnostic equipment are unavailable.

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

Docket No: M-2013-026-C.

Petitioner: Wolf Run Mining Company, 99 Edmiston Way, Buckhannon, West Virginia 26201.

Mine: Sentinel Mine, MSHA I.D. No. 46-04168, located in Barbour County, West Virginia.

Regulation Affected: 30 CFR 75.1002 (installation of electric equipment and conductors; permissibility).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of compliance to allow the use of nonpermissible low-voltage or battery-powered nonpermissible electronic testing and diagnostic equipment within 150 feet of pillar workings in the Sentinel Underground Coal Mine. The petitioner states that:

(1) The nonpermissible low-voltage or battery-powered electronic testing and diagnostic equipment would be limited to laptop computers, oscilloscopes, vibration analysis machines, cable fault detectors, point temperature probes, infrared temperature devices, signal analyzer devices, ultrasonic measuring devices, electronic component testers and electronic tachometers.

(2) Permissible approved voltage measuring instruments are available and will be used when possible.

(3) All other testing and diagnostic equipment used within 150 feet of pillar workings or longwall faces will be permissible.

(4) Other testing and diagnostic equipment may be used if approved in advance by the District Manager.

(5) All nonpermissible low-voltage or battery-powered non-permissible electronic testing and diagnostic equipment to be used within 150 feet of pillar workings will be examined prior to use by a certified person to assure that the equipment is being maintained in a safe operating condition.

(6) The results of the examinations will be recorded and retained for one year and made available to MSHA on request.

(7) A qualified person as defined in 30 CFR 75.151 will continuously monitor for methane immediately before and during the use of nonpermissible electronic testing and diagnostic equipment within 150 feet of pillar workings.

(8) Nonpermissible electronic testing and diagnostic equipment will not be used if methane is detected in concentrations at or above one percent. When methane is detected at such levels while the nonpermissible electronic testing and diagnostic equipment is being used, the equipment will be deenergized immediately and the nonpermissible electronic equipment withdrawn further than 150 feet from pillar workings.

(9) All hand-held methane detectors will be MSHA- approved and maintained in permissible and proper operating condition as defined in 30 CFR 75.320.

(10) Coal production will cease, except for the time necessary to trouble-shoot under actual mining conditions. Coal may remain in or on the equipment in order to test and diagnose the equipment under load. This change will require production to cease except during actual testing. Accumulations of coal and combustible materials referenced in 30 CFR 75.400 will be removed before testing begins to provide additional safety to the miners.

(11) Nonpermissible electronic test and diagnostic equipment will not be used to test equipment when float coal dust is in suspension.

(12) All electronic and diagnostic equipment will be used in accordance with the manufacturer's recommended safe use procedures.

(13) Qualified personnel engaged in the use of nonpermissible electronic testing and diagnostic equipment will be properly trained to recognize the hazards and limitations associated with the use of nonpermissible electronic testing and diagnostic equipment in areas where methane could be present.

(14) The nonpermissible electronic testing and diagnostic equipment will not be put into service until MSHA has initially inspected the equipment and determined that it is in compliance with all the above terms and conditions.

(15) Cables supplying power to low-voltage test and diagnostic equipment will only be used when permissible testing and diagnostic equipment are unavailable.

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

Docket No: M-2013-027-C.

Petitioner: North American Drillers, 130 Meadow Ridge Road, Suite 22, Mount Morris, Pennsylvania 15349.

Mine: American Energy Corporation's Century Mine, MSHA I.D. No. 33-01070, located in Belmont County, Ohio.

Regulation Affected: 30 CFR 77.1914(a) (Electrical equipment).

Modification Request: The North American Drillers (petitioner) requests a modification of the existing standard to permit the use of a 480-volt, three-phase, alternating current submersible pump, to dewater completed ventilation shafts prior to being put into service at the American Energy Corporation's Century Mine. The petitioner states that:

(1) The three-phase, alternating current electric power circuit for the pump will be designed and installed to:

(a) Contain either a direct or derived neutral wire that will be grounded through a suitable resistor at the source transformer or power center, and through a grounding circuit originating at the grounded side of the grounded resistor, that will extend along with the power conductors and serve as the grounding conductor for the frame of the pump. Power will not be supplied to any other electric equipment from this circuit. The borehole casing will be bonded to the system grounding medium.

(b) Contain a grounding resistor that limits the ground-fault current to not more than 15 amperes. The grounding resistor will be rated for the maximum fault current available and will be insulated from the ground for a voltage equal to the phase-to-phase voltage of the system.

(2) The following protections for the 480-volt pump circuit will be provided by a suitable circuit interrupting device of adequate interrupting capacity with devices to provide protection against under-voltage, grounded-phase, short-circuit, and/or overload:

(a) The under-voltage protection device will operate on a loss of voltage to prevent automatic restarting of the equipment.

(b) The grounded-phase protection device will be set not to exceed 40 percent of the current rating of the neutral grounding resistor.

(c) The pump-power system will include a test circuit that will inject a test current through the ground phase transformer.

(d) The short-circuit protection device will be set not to exceed the required short-circuit protection for the power cable or 75 percent of the minimum available phase-to-phase short-circuit current, whichever is less.

(e) The circuit will include a disconnecting device located on the surface and be installed in conjunction with the circuit breaker to provide visual evidence that the power is disconnected.

(f) The disconnecting device will include a means to determine visually that the pump power circuit is disconnected and provided with a means to lock and tag-out the system.

(g) The pump power system will include a fail-safe ground-check circuit or other, no less effective, device approved by the Secretary that will cause the circuit breaker to open when either the ground or pilot wire is broken. A manually operated test switch will be provided to verify the operation of the ground-check device.

(h) The pump power system will include a look-ahead circuit device to prevent closing the breaker when a phase to ground-fault condition exists on the system

(3) The pump(s) electric control circuit(s) will be designed and installed so that:

(a) The pump(s) cannot start and/or run in either the manual or automatic mode if the water is below the low-water level.

(b) The low-water probe will be positioned to maintain water above the electrical connections of the pump motor.

(c) The low-water probe will be suitable for submersible pump control application.

(d) All probe circuits will be intrinsically safe.

(e) A motor controller will be provided and used for pump startup and shutdown.

(4) The pump installation will be equipped with a water-level indicator located at the pump electric controls so that a miner can determine the water level at the pump location prior to restarting the pump motor.

(5). The surface pump(s) control and power circuits will be examined, tested, and properly maintained in accordance with 30 CFR 77.502 as follows:

(a) A record of the examination will be kept in accordance with 30 CFR 77.502-2.

(b) The examination will include a functional test of the grounded phase protective device(s) to determine proper operation.

(c) A record of these functional tests will be recorded in the approved examination of electric equipment record books.

(d) Prior to placing the pump in service, an electrical examination will be performed.

(6) The power cable to the submersible pump motor will be suitable for this application and have a current carrying capacity not less than 125 percent of the full load motor current of the submersible pump motor.

(7) Splices and connections made in low- and medium-voltage submersible pump cable(s) will be made in a workmanlike manner and will meet the requirements of 30 CFR 77.504.

(8) The District Manager will be notified prior to construction via the required shaft plan for any blind drilled shaft when any submersible pump is to be utilized in dewatering any blind drill shaft(s).

The petitioner further states that:

(1) The petitioner will submit to the District Manager proposed revisions for the approved 30 CFR part 48 training plan that will specify task training for all qualified electricians who perform electric work and monthly electric examinations as required by 30 CFR 77.502, refresher training regarding the alternative method outlined in this petition, and the terms and conditions stated in the Proposed Decision and Order. The training will include the following elements:

(a) Training in hazards that could exist if the water level falls below the electric connections of the pump and pump motor.

(b) Training in safe restart procedures that will include the miner determining that the water level is above the electric components and pump motor prior to attempting to manually restart the pump motor.

(2) The procedures of 30 CFR 48.3 for approval of proposed revisions to already approved training plans will apply.

(3) When implementing the work of providing a blind drilled shaft for the mine operator, the blind drilled shaft remains full of water and personnel are never required to go below the collar of the blind drilled shaft.

(4) The petitioner will remove water from the blind drilled shaft installation upon completion of the work prior to the mine operator connecting the blind drilled shaft to the underground mine.

(5) The blind drilled shaft is fully lined with steel casing and is grouted in place. This steel casing and grout seal isolate the completed blind drilled shaft from any coal seams mitigating any possibility for methane to enter the blind drilled shaft.

(6) The electric motor of any submersible pump is located below the pump intake making it impossible for the motor to ever be above the surface of the water.

(7) Currently there are no electric submersible motor/pump assemblies manufactured that will effectively pump water deeper than approximately 400 feet that are permissible as required in the existing standard.

(8) The petitioner proposes to use permissible pumps to dewater blind drilled shafts where depths are less than approximately 400 feet.

(9) At depths greater than approximately 400 feet, the alternative method outlined in this petition is consistent with prudent engineering design pursuant to 30 CFR 77.1900 whereas it minimizes the hazards to those employed in the initial or subsequent development of the blind drilled shaft.

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.

Docket No: M-2013-028-C.

Petitioner: Brody Mining, LLC, 33207 Pond Fork Rd., Wharton, West Virginia 25208.

Mine: Brody Mine No. 1, MSHA I.D. No. 46-09086, located in Boone County, West Virginia.

Regulation Affected: 30 CFR 75.1909(b)(6) (Nonpermissible diesel-powered equipment; design and performance requirements).

Modification Request: The petitioner requests a modification of the existing standard to permit the use of the Getman Diesel Grader with rear wheel brakes only at the Brody Mine No. 1. The petitioner states that:

(1) The maximum speed of the diesel grader will be limited to 10 miles per hour by physically blocking the higher gear ratios that provide for speeds exceeding 10 miles per hour.

(2) The miners that operate the grader will be trained to recognize the gear blocking device and its proper application and requirements.

(3) The miners who operate the grader will be trained to drop the grader blade to provide additional stopping capability in emergencies.

(4) The low speeds coupled with the availability of the grader blade for stopping in emergencies will provide for the appropriate stopping ability. The rear wheel brakes will be maintained in proper working condition at all times.

(5) All other applicable requirements of the Federal Mine Safety and Health Act of 1977 and its corresponding regulations for the Getman grader will apply.

(6) This petition is limited to the Getman diesel grader, Serial No. 6732.

(7) The petitioner will submit to the District Manager proposed revisions for the approved 30 CFR part 48 training plan that will specify initial and refresher training consistent with the terms and conditions stated in this petition.

The petitioner asserts that the proposed alternative method will guarantee no less than the same measure of protection to all miners as would be provided by the existing standard.

_____ Dated: June 13, 2013

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

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