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-2013-045-C.

Petitioner: Bowie Resources, LLC, Three Gateway Center, Suite 1500, 401 Liberty Avenue, Pittsburgh, Pennsylvania 15222-1000.

Mines: No. 2 Mine, MSHA I.D. No. 05-04591, located in Delta County, Colorado.

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 battery-powered nonpermissible surveying equipment in return airways, including, but not limited to, portable battery-operated mine transits, total station surveying equipment, distance meters, and data loggers. The petitioner states that:

(1) To comply with requirements for mine ventilation maps and mine maps in 30 CFR 75.372 and 75.1200, use of the most practical and accurate surveying equipment is necessary.

(2) Application of the existing standard would result in a diminution of safety to the miners. Underground mining, by its nature and size and the complexity of mine plans, requires that accurate and precise measurements be completed in a prompt and efficient manner. The petitioner proposes the following as an alternative to the existing standard:

(a) Nonpermissible electronic surveying equipment may be used. Such nonpermissible surveying equipment includes portable battery-operated total station surveying equipment, mine transits, distance meters, and data loggers.

(b) All nonpermissible electronic surveying equipment to be used in return airways will be examined by surveying personnel prior to use to ensure the equipment is being maintained in a safe operating condition. These examinations will include:

(i) Checking the instrument for any physical damage and the integrity of the case.

(ii) Removing the battery and inspecting for corrosion.

(iii) Inspecting the contact points to ensure a secure connection to the battery.

(iv) Reinserting the battery and powering up and shutting down to ensure proper connections.

(v) Checking the battery compartment cover to ensure that it is securely fastened.

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

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

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

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

(g) Batteries in the surveying equipment will be changed out or charged in fresh air out of the return.

(h) Qualified personnel who use surveying equipment will be properly trained to recognize the hazards and limitations associated with the use of nonpermissible surveying equipment in areas where methane could be present.

(i) The nonpermissible surveying equipment will not be put into service until MSHA has initially inspected the equipment and determined that it is in compliance with all the terms and conditions in this petition.

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

Docket Number: M-2013-046-C.

Petitioner: Bowie Resources, LLC, Three Gateway Center, Suite 1500, 401 Liberty Avenue, Pittsburgh, Pennsylvania 15222-1000.

Mine: No. 2 Mine, MSHA I.D. No. 05-04591, located in Delta County, Colorado.

Regulation Affected: 30 CFR 75.1002(a) (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 battery-powered nonpermissible surveying equipment within 150 feet of pillar workings, including, but not limited to, portable battery-operated mine transits, total station surveying equipment, distance meters, and data loggers. The petitioner states that:

(1) To comply with requirements for mine ventilation maps and mine maps in 30 CFR 75.372, and 75.1200, use of the most practical and accurate surveying equipment is necessary. To ensure the safety of the miners in active mines and to protect miners in future mines that may mine in close proximity to these same active mines, it is necessary to determine the exact location and extent of the mine workings.

(2) Application of the existing standard would result in a diminution of safety to the miners. Underground mining by its nature and size, and the complexity of mine

plans, requires that accurate and precise measurements be completed in a prompt and efficient manner. The petitioner proposes the following as an alternative to the existing standard:

(a) Nonpermissible electronic surveying equipment will be used when equivalent permissible electronic surveying equipment is not available. Such nonpermissible surveying equipment includes portable battery-operated total station surveying equipment, mine transits, distance meters, and data loggers.

(b) All nonpermissible electronic surveying equipment to be used within 150 feet of pillar workings will be examined prior to use to ensure the equipment is being maintained in a safe operating condition. These examinations will include:

(i) Checking the instrument for any physical damage and the integrity of the case.

(ii) Removing the battery and inspecting for corrosion.

(iii) Inspecting the contact points to ensure a secure connection to the battery.

(iv) Reinserting the battery and powering up and shutting down to ensure proper connections.

(v) Checking the battery compartment cover to ensure that it is securely fastened.

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

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

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

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

(g) Batteries in the surveying equipment will be changed out or charged in fresh air more than 150 feet from pillar workings.

(h) Qualified personnel who use surveying equipment will be properly trained to recognize the hazards and limitations associated with the use of nonpermissible surveying equipment in areas where methane could be present.

(i) The nonpermissible surveying equipment will not be put into service until MSHA has initially inspected the equipment and determined that it is in compliance with all the terms and conditions in this petition.

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

Docket Number: M-2013-010-M

Petitioner: U.S. Silica Company, 105 Burkett Switch Road, Jackson, Tennessee 38301.

Mine: Jackson Plant, MSHA I.D. No. 40-02937, located in Madison County, Tennessee.

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

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method for implementing a clothes cleaning process that uses regulated compressed air for cleaning miners' dust-laden clothing. The petitioner states that:

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

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

3. Only miners trained in the operation of the clothes cleaning booth will be permitted to use the booth to clean their clothes.

4. The petitioner will incorporate the NIOSH Clothes Cleaning Process and Manufacturer's Instruction Manuals into their MSHA Part 46 Training Plan and train affected miners in the process.

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

6. Miners entering the booth will wear eye protection; ear plugs or muffs for hearing protection; and, 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. As an alternative, the use of a full-face respirator will meet the requirement for eye protection. A sign will be conspicuously posted requiring the use of personal protective equipment when entering the booth.

7. 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.

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

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

10. Air nozzles will not exceed 30 pounds per square inch gauge.

11. The uppermost spray of the spray manifold will be located below the booth users' breathing zone. Deflection covers will be used over the upper air nozzles if necessary to meet the specific height of the user.

12. 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.

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

14. 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.

15. An appropriate hazard warning sign will be posted on the booth to state, at a minimum, "Compressed Air" and "Respirable Dust".

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

17. 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 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, 2013

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

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