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-2013-047-C.

Petitioner: Carter Roag Coal Company, LLC, 1023 Lanham Cemetery Road, Tallmansville, West Virginia 26237.

Mine: Pleasant Hill Mine, MSHA I.D. No.46-08194, located in Randolph County, West Virginia.

Regulation Affected: 30 CFR 75.1101-1(b) (Deluge-type water spray systems).

Modification Request: The petitioner requests a modification of the existing standard to eliminate the use of blow-off dust covers for the spray nozzles of a deluge-type water spray system. In support of the alternative method, the petitioner proposes to continue performing the weekly examinations and functional testing of the deluge fire suppression systems installed at conveyor belt drives. The petitioner states that:

(1) A person trained in the testing procedures specific to the water deluge-type fire suppression systems utilized at each belt drive of the mine affected by this petition

will conduct an examination, functional test, and residual pressure measurements consisting of the following:

(a) A visual examination of each of the water deluge-type fire suppression systems in the affected mine.

(b) A functional test of the water deluge-type fire suppression systems by actuating the system and observing its performance.

(c) Taking residual pressure measurements at the most hydraulically demanding nozzle to determine whether the system meets the manufacturer's specifications.

(d) Keeping a record of the results of the examinations, function tests, and residual pressure measurements in a book maintained on the surface for that purpose. Such record book will be made available to the authorized representative of the Secretary and retained at the mine for one year after the last recorded examination.

(2) Any malfunctioning or clogged nozzle(s) detected as a result of the weekly examination or functional test will be corrected immediately.

(3) The procedure used to perform the functional test will be posted at or near each belt drive that utilizes a deluge-type water spray fire suppression system.

The petitioner will submit to the District Manager proposed provisions for each applicable 30 CFR part 48 training plan specifying the procedures to be used to conduct the weekly functional test, as well as initial and refresher training (including addressing any necessary conditions specified in the proposed decision and order granting approval).

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-2013-048-C.

Petitioner: Pocahontas Coal Company, LLC, 109 Appalachian Drive, Beckley, West Virginia 25801.

Mine: Josephine 2 Mine, MSHA I.D. No. 46-07191, located in Raleigh County, West Virginia.

Regulation Affected: 30 CFR 75.1101-1(b) (Deluge-type water spray systems).

Modification Request: The petitioner requests a modification of the existing standard to eliminate the use of blow-off dust covers for the spray nozzles of a deluge-type water spray system. In support of the alternative method, the petitioner proposes to continue performing the weekly examinations and functional testing of the deluge fire suppression systems installed at conveyor belt drives. The petitioner states that:

(1) A person trained in the testing procedures specific to the water deluge-type fire suppression systems utilized at each belt drive of the mine affected by this petition will conduct an examination, functional test, and residual pressure measurements consisting of the following:

(a) A visual examination of each of the water deluge-type fire suppression systems in the affected mine.

(b) A functional test of the water deluge-type fire suppression systems by actuating the system and observing its performance.

(c) Taking residual pressure measurements at the most hydraulically demanding nozzle to determine whether the system meets the manufacturer's specifications.

(d) Keeping a record of the results of the examinations, function tests, and residual pressure measurements in a book maintained on the surface for that purpose. Such record book will be made available to the authorized representative of the Secretary and retained at the mine for one year after the last recorded examination.

(2) Any malfunctioning or clogged nozzle(s) detected as a result of the weekly examination or functional test will be corrected immediately.

(3) The procedure used to perform the functional test will be posted at or near each belt drive that utilizes a deluge-type water spray fire suppression system.

The petitioner will submit to the District Manager proposed provisions for each applicable 30 CFR part 48 training plan specifying the procedures to be used to conduct the weekly functional test, as well as initial and refresher training (including addressing any necessary conditions specified in the proposed decision and order granting approval).

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-2013-049-C.

Petitioner: Affinity Coal Company, LLC, 111 Affinity Complex Road, Sophia, West Virginia 25921.

Mine: Affinity Mine, MSHA I.D. No. 46-08878, located in Raleigh County, West Virginia.

Regulation Affected: 30 CFR 75.1101-1(b) (Deluge-type water spray systems).

Modification Request: The petitioner requests a modification of the existing standard to eliminate the use of blow-off dust covers for the spray nozzles of a deluge-type water spray system. In support of the alternative method, the petitioner proposes to continue performing the weekly examinations and functional testing of the deluge fire suppression systems installed at conveyor belt drives. The petitioner states that:

(1) A person trained in the testing procedures specific to the water deluge-type fire suppression systems utilized at each belt drive of the mine affected by this petition will conduct an examination, functional test, and residual pressure measurements consisting of the following:

(a) A visual examination of each of the water deluge-type fire suppression systems in the affected mine.

(b) A functional test of the water deluge-type fire suppression systems by actuating the system and observing its performance.

(c) Taking residual pressure measurements at the most hydraulically demanding nozzle to determine whether the system meets the manufacturer's specifications.

(d) Keeping a record of the results of the examinations, function tests, and residual pressure measurements in a book maintained on the surface for that purpose. Such record book will be made available to the authorized representative of the Secretary and retained at the mine for one year after the last recorded examination.

(2) Any malfunctioning or clogged nozzle(s) detected as a result of the weekly examination or functional test will be corrected immediately.

(3) The procedure used to perform the functional test will be posted at or near each belt drive that utilizes a deluge-type water spray fire suppression system.

The petitioner will submit to the District Manager proposed provisions for each applicable 30 CFR part 48 training plan specifying the procedures to be used to conduct the weekly functional test, as well as initial and refresher training (including addressing any necessary conditions specified in the proposed decision and order granting approval).

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-2013-011-M.

Petitioner: Ruby Gold, Inc., P.O. Box 1241, Grass Valley, California 95945.

Mine: Ruby Mine, MSHA I.D. No. 04-03108, located in Nevada County, California.

Regulation Affected: 30 CFR 57.11052(d) (Refuge areas).

Modification Request: The petitioner requests a modification of the existing standard to permit 12 gallons of bottled water to be stored inside the refuge chamber of the Ruby Mine for use in an emergency. The petitioner states that:

(1) The mention of waterlines in the standard implies that there must be a steady flow of drinking water from an outside source. The house and fire protection water for the Ruby Mine currently taps a spring located above the portal. This water and conveyance pipeline has not yet been tested for potability.

(2) The refuge chamber is approximately 3,000 feet from the nearest exit at the Ruby portal, running a dedicated potable water line to the refuge chamber will incur considerable expense.

(3) There is no mention of 30 CFR 57.11052 in the Program Policy Manual to provide further guidance to the standard. Procedures pertaining to drinking water are mentioned in 30 CFR 71.602(a) and (b).

(4) Bottled water would be just as safe if not safer than a waterline, because there is a chance that the water can become polluted from some external event such as a fire or some other situation that causes the source of a waterline to become undrinkable or unavailable for any number of possible reasons.

(5) No more than five miners are anticipated to seek refuge in the chamber during a mine emergency. The duration of any mine emergency is not expected to exceed one or two days. Each miner would require up to 64 ounces of water per day, so that over a 2-day period five miners would require an aggregate of five gallons of water.

(6) The refuge chamber at the Ruby Mine is expected to be only a temporary facility since a primary project of the current operation is the restoration of a safe and usable second exit for the mine.

(7) The current operations at the mine are extremely low risk for the occurrence of any incident which could require the need to use the refuge chamber for the following reasons:

(a) There are no electrical power lines underground;

(b) No internal combustion equipment is in use underground; and

(c) The tunnel is being rehabilitated. All activities are being conducted in, as well as immediately adjacent to, the sections of the tunnel that have been recently retimbered to provide new and reinforced ground support.

(8) While it appears that the standard in 30 CFR 71.602 provides an acceptable alternative to the use of a dedicated waterline in a refuge chamber, we are respectively requesting a variance of 30 CFR 57.11052(d) so that bottled water may be stored for use in the refuge chamber at the Ruby Mine.

(9) Application of the standard will reduce the safety of the miners affected, as a dedicated waterline extending from the portal to the refuge chamber is subject to interruption and is inherently less safe than sanitary bottled water stored inside the refuge chamber.

(10) An external water supply could be interrupted from any number of conditions within or outside the mine.

(11) The nature of any emergency itself could cause an external water supply to be polluted, choked, or cutoff entirely if the pipeline were to be compromised. If the external supply of water is interrupted for any reason the miners will be at extreme risk with no other sources of drinking water available.

The petitioner further states that:

(1) As an alternative method, a sufficient supply of bottled water stored in the refuge chamber for use in an emergency represents 100 percent certainty that the miners will have sanitary drinking water available to them regardless of the nature of any emergency that might require the use of the refuge chamber.

(2) Bottled water is sanitary and cannot be compromised by any emergency situation outside of the refuge chamber.

(3) By having bottled water stored inside the chamber there is virtually no opportunity for the water supply to be compromised from normal mining operations (e.g., blasting, scaling, etc.) such as what could potentially occur with an external water line, and thus stored bottled water represents a significant safety improvement.

(4) We understand that the intent of the standard is to provide a supply of drinking water in the event of an emergency that may last for an extended period of time beyond a few days, but as stated, in the event an external water line is compromised then water will be unavailable from the very outset of an emergency let alone whatever may develop over the course of time.

(5) Stored bottled water provides miners with the absolute certainty that water will be available immediately whenever needed, and in the very first hours of an emergency that are often the most critical.

(6) The Ruby Mine is not a shaft that extends vertically to depth. It is a drift mine that extends by way of flat tunnel into the earth laterally to follow the course of ancient river channels. In the event of an emergency requiring the use of the refuge chamber, we believe a rescue can be effected within a relatively short period of time such that any emergency would not have a long duration.

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.

Dated: November 13, 2013

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

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