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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 Title 30 of the Code of Federal Regulations, 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.

**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](mailto: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: Sheila McConnell, Acting Director, Office of Standards, Regulations and Variances. Persons delivering documents are required to check in at the receptionist's desk on the 21<sup>st</sup> 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](mailto: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-2014-020-M.

Petitioner: Barrick Goldstrike Mine, Inc., the KOIN Center, Suite 1500, 222 SW Columbia Street, Portland, Oregon 97201.

Mine: Arturo Mine, MSHA I.D. No. 26-02767, 27 Miles North of Carlin, Carlin, Nevada 89822, located in Eureka County, Nevada.

Regulation Affected: 30 CFR 56.6309(b) (Fuel oil requirements for ANFO).

Modification Request: The petitioner requests a modification of the existing standard to allow the use of recycled used waste oil blended with diesel fuel (hereinafter “blended oil”) to prepare ammonium-nitrate fuel oil (ANFO). Blended oil has been approved for use to prepare ANFO at Barrick’s Goldstrike mine pursuant to MSHA’s Amended Decision and Order of December 1, 1998, reinstated by Decision and Order November 4, 2011, granting modification of the application of 30 CFR 56.6309(b) at Goldstrike (hereinafter “Goldstrike Modification Order”). The petitioner states that it seeks only to use the blended oil that has already been recycled and tested at Goldstrike according to the conditions set out in the Goldstrike Modification Order in its ANFO blasting agents, and use the blended oil prepared and approved for use at Goldstrike in ANFO mixtures at the Arturo Mine. The petitioner states that:

(1) Barrick operates several gold mines in Elko, Nevada, including Goldstrike Mine and soon-to-be launched Arturo Mine.

(2) In its capacity as manager for Barrick/Dee Mining Venture, a joint venture between Barrick Gold Exploration, Inc., and Goldcrop Dee LLC, Barrick will commence mining operations at the Arturo Mine, I.D. No. 26-02767, on January 2, 2015.

(3) The Arturo Mine is an open-pit gold mine that consists of a series of sediment hosted Carlin-style gold deposits adjacent to and including the former Dee gold mine, 35 kilometers northwest of Elko, Nevada. The mining methods at Arturo will involve using heavy equipment to dig blasted rock and ore, similar to the mining methods at Goldstrike Mine. The ore will be transferred to either a leach pad or stockpile, and ultimately to Goldstrike for further processing. Waste rock will be transferred to a waste dump.

(4) The principle blasting method to be applied at Arturo Mine involves the use of ANFO loaded in pre-drilled blast holes, also similar to the blasting methods at Goldstrike Mine. Barrick intends to ignite approximately 1,000 blast holes per month at Arturo Mine, the number of which would fluctuate depending on targets and gold prices.

(5) Barrick seeks a modification of the application of 30 CFR 56.6309(b) at the Arturo Mine to allow it to utilize blended oil in lieu of conventional diesel fuel when preparing ANFO for blasting.

(6) It is important to note that MSHA has already determined that there is no diminution of safety when using blended oil that meets the EPA criteria of 40 CFR 279.11, and does not contain hazardous waste material listed in 40 CFR 261 to prepare ANFO under the conditions set forth in the Goldstrike Modification Order – the very same conditions that Barrick intends to follow when using blended oil in its ANFO mixtures at the Arturo Mine.

(7) On March 14, 1997, Barrick filed a Petition for Modification of 30 CFR 56.6309(b) for its Goldstrike Mine, I.D. No. 26-01089, on the grounds that utilizing used waste oil, collected from diesel equipment at Goldstrike and recycled and tested according to certain conditions, in lieu of conventional diesel fuel when preparing ANFO

blasting agents would at all times guarantee no less than the same measure of protection afforded by the standard.

(8) On December 1, 1998, MSHA granted Barrick's petition and issued the Goldstrike Modification Order, granting modification of the application of 30 CFR 56.6309(b) based upon an alternative method of compliance involving 22 requisite conditions.

(9) Since the issuance of the Goldstrike Modification Order, Barrick has followed the 22 requisite conditions when collecting and recycling waste oil into used oil, and ultimately combining it with diesel fuel to create blended oil for use in its ANFO mixtures at Goldstrike Mine as an approved alternative method of compliance with 30 CFR 56.6309(b).

(10) Barrick likewise seeks a modification of the application of this standard to its Arturo Mine and states that this petition for modification is premised on Barrick's intent only to utilize in its ANFO blasting agents the blended oil that has already been recycled and tested at Goldstrike according to the conditions in the Goldstrike Modification Order.

(11) The petitioner proposes to use the following procedures at the Arturo Mine to achieve the goal of 30 CFR 56.6309(b):

(a) The ANFO blasting agents the petitioner seeks to load in its blast holes at Arturo Mine will consist of blended oil prepared at Goldstrike Mine according to the conditions set forth in the Goldstrike Modification Order, combined with ammonium nitrate. The blended oil and ammonium nitrate will be taken to the blast site in separate

containers and will be combined only as part of the actual process of loading the blast holes.

(b) After the blended oil has been sampled and tested at Goldstrike in accordance with the Goldstrike Modification Order, Barrick will transport 6,000 gallons of blended oil from Goldstrike to Arturo Mine using the same dedicated truck already in use at Goldstrike for hauling oil from the storage tank to the blend facility, to ensure safe and secure transport of the same to Arturo Mine. The distance the truck will travel from the Goldstrike storage facility to Arturo Mine measures 5.3 miles.

(c) Once the blended oil arrives at Arturo Mine, Barrick will store that blasted oil in a 6,000 gallon tank that is dedicated for diesel and/or used oil blend storage. The tank will be designed with an automatic stirring system that keeps the blend mixed. This tank will be placed inside of the Arturo magazine compound.

(d) The ammonium nitrate to be combined with the blended oil to create ANFO will be stored separate and apart from the blended oil in two 100 ton silos in a locked and secured compound in the same vicinity. Only authorized blasting personnel will have access to the blended oil and ammonium nitrate storage facilities.

(e) The blended oil and ammonium nitrate will be taken to the blast site in separate containers and will be combined only as part of the actual process of loading the blast holes. The same certified blasting personnel operating at Goldstrike Mine will perform blasting operations at Arturo Mine.

The petitioner proposes that procedures set forth in this petition constitute a fully appropriate and safe method for transporting, storing, and utilizing recycled used waste oil to prepare ANFO without any diminution of safety.

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 Number: M-2014-045-C.

Petitioner: Eastern Associated Coal, LLC, 1144 Market Street, Suite 400, Wheeling, West Virginia 26003.

Mine: Federal No. 2 Mine, MSHA I.D. No. 46-01456, Monongalia County, West Virginia.

Regulation Affected: 30 CFR 75.1400-3(b)(5) (Daily examination of hoisting equipment).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of compliance for daily examination of skips that are used periodically as hoisting equipment to transport persons. The petitioner seeks modification of the existing standard as it pertains to daily examinations and observations of the lining and all other equipment and appurtenances installed in a shaft where persons are transported, and as the standard applies to the use of skips to transport persons at the Federal No. 2 Mine. The petitioner states that:

(1) Eastern Associated Coal uses skips primarily to transport mined material out of the mine, but the skips at Federal No. 2 mine are equipped with appropriate features and safety mechanisms to be used to also transport persons.

(2) The transport of persons by skip will only occur when maintenance work or shaft inspection is required. Such work is required periodically and on an “as needed” basis.

(3) In lieu of the daily examination required by the standard, the lining and appurtenances installed in the shaft will be examined on a weekly basis. The examination will be used to trend conditions in the shaft and may be performed more frequently if deemed necessary by the operator.

(4) The examination on the day(s) the skip is to be used to transport persons will occur prior to the maintenance being performed.

(5) The petitioner will comply with all other applicable requirements of the Federal Mine Safety and Health Act of 1977 and its corresponding regulations.

The petitioner asserts that the proposed alternative method of examining the lining of the shaft will guarantee no less than the same measure of protection to the miners as would be provided by the existing standard, and will not result in a diminution of safety to the miners.

Dated: November 28, 2014.

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Sheila McConnell,  
Acting Director,  
Office of Standards, Regulations and Variances.

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