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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 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 MSHA's 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, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202-5452,

Attention: Sheila McConnell, Director, Office of Standards, Regulations, and Variances. Persons delivering documents are required to check in at the receptionist's desk in Suite 4E401. 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-2016-001-M.

Petitioner: The Doe Run Company, Three Gateway Center, suite 1500, 401 Liberty Avenue, Pittsburgh, Pennsylvania 15222-1000.

Mines: Buick Mine/Mill, MSHA I.D. No. 23-00457 and Viburnum No. 35 (Casteel Mine), MSHA I.D. No. 23-01800, located in Iron County, Missouri; Sweetwater Mine/Mill, MSHA I.D. No. 23-00458, Fletcher Mine/Mill, MSHA I.D. No. 23-00409, and Brushy Creek Mine/Mill, MSHA I.D. No. 23-00499, located in Reynolds County, Missouri; and Viburnum No. 29 Mine, MSHA I.D. No. 23-00495, located in Washington County, Missouri.

Regulation Affected: 30 CFR 57.11050 (Escapeways and refuges).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of compliance with respect to escapeways. The petitioner states that:

- (1) The Doe Run Company operates six underground lead mines near Viburnum, Missouri. The Buick Mine is currently considered “inactive” by MSHA but mining is occurring within the boundaries of the mine. The mines consist of both development and production headings. Activities include drilling, blasting, scaling, loading, and hauling of ore.
- (2) All of Doe Run’s mines access the elevation where the ore bodies are located by means of shafts. The ore body is accessed horizontally from such shafts. Each mine has two escapeways from what would be considered the lowest levels of each mine.

(3) Provision of two escapeways from each working area will be difficult, burdensome and unnecessarily costly. It will involve, in part, mining areas where there is no ore present and it will consume extensive periods of time. There are numerous areas at issue and abatement may involve millions of dollars of expense in certain areas.

(4) As an alternative to compliance to the existing standard 30 CFR 57.11050, the petitioner proposes the following:

(a) All active mining headings or development headings with more than 1000 feet of single access drift in the roadway leading to it will have a Designated Point of Safety (DPOS) within 1000 feet of every working heading.

(b) In cases where the mining area opens up to multiple drifts inby the 1000 feet of single access, the DPOS will be placed inby the last point of single access but not necessarily within 1000 feet of all working faces.

(c) Portable escape hoist vent shafts and roadways to other mines “inby” the 1000 feet of single access will eliminate the need for a DPOS.

(d) The DPOS for each work area that does not have two escapeways from the work area will comply with requirements for refuge alternatives in 30 CFR Part 7, specifically as follows:

(i) Prefabricated self-contained units, including the structural breathable air, air monitoring, and harmful gas removal components of the unit will be approved under 30 CFR Part 7.

(ii) Refuge alternatives will provide at least 15 square feet of floor space per person and 30 to 60 cubic feet of volume per person. The airlock can be included in the space and volume if waste is disposed outside the refuge alternative.

(iii) The operator will protect the refuge alternative and contents from damage during transportation, installation, and storage.

(iv) A refuge alternative will be removed from service if examination reveals damage that interferes with the functioning of the refuge alternative or any component.

(a) If a refuge alternative is removed from service, the operator will withdraw all persons from the area serviced by the refuge alternative, except those persons referred to in § 104(c) of the Mine Act.

(b) Refuge alternative components removed from service will be replaced or be repaired for return to service in accordance with the manufacturer's specifications.

(v) At all times, the site and area around the refuge alternative will be kept clear of machinery, materials, and obstructions that could interfere with the deployment or use of the refuge alternative.

(vi) Each refuge alternative will be conspicuously identified with a sign or marker as follows:

(a) A sign or marker made of a reflective material with the word "Refuge" will be posted conspicuously at each refuge alternative.

(b) Directional signs made of a reflective material will be posted leading to each refuge alternative location.

(vii) During the use of the refuge alternative, the atmosphere within the refuge alternative will be monitored. Changes or adjustments will be made to reduce the

concentration of carbon dioxide to 1 percent or less and excursions not exceeding 2.5 percent; and to reduce the concentration of carbon monoxide to 25 ppm or less. Oxygen will be maintained at 18.5 to 23 percent.

(viii) Refuge alternatives will contain a fire extinguisher that:

- (a) Meets the requirements for portable fire extinguishers used in underground coal mines under this part;
- (b) Is appropriate for extinguishing fires involving the chemical used for harmful gas removal; and
- (c) Uses of low-toxicity extinguishing agent that does not produce a hazardous by-product when activated.

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.

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

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