Billing Code: 4520-43-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: 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 MSHA's Office of Standards, Regulations, and Variances on or before [INSERT DATE 30 DAYS FROM 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 petition 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: Sheila McConnell, Office of Standards, Regulations, and Variances at 202-693-9440 (Voice), barron.barbara@dol.gov (E-mail), or 202-693-9441 (Facsimile). [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION: 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.

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-2019-016-C.

Petitioner: S & J Coal Company, 15 Road View Lane, Pine Grove, Pennsylvania 17963.

Mine: Slope #2 Mine, MSHA I.D. No. 36-09963, located in Schuylkill County, Pennsylvania.

Regulation Affected: 30 CFR 75.1400(c) (Hoisting equipment; general).

Modification Request: The petitioner requests a modification of the existing standard to permit operating the gunboat used in the mine to transport persons without safety catches or other no less effective devices.

The petitioner states that:

(1) To date, a functional safety catch has not been developed because no such safety catch or device is available for steeply pitching and undulating slopes with numerous curves and knuckles present in the main haulage slopes of anthracite mines. Makeshift devices, if installed, could be activated on knuckles and curves when no emergency exists causing a tumbling effect on the conveyance which would increase rather than decrease the hazard to miners.

(2) Anthracite mine slopes range in length from 180 to 1,000 feet and vary in pitch from 30 to 75 degrees.

(3) The petitioner proposes to operate the steel gunboat with secondary safety connections securely fastened around the gunboat and to the hoisting rope above the main connecting device, and use hoisting ropes having a safety factor in excess of three (3).

The petitioner proposes the following terms and conditions:

(a) A communication signal system, audible to the hoist operator will be installed so that it can be activated from the gunboat at any location along the slope.

(b) The design safety factor of the hoist rope will be maintained at all times not less than three (3) times the value specified in 30 CFR 75.1431.

(c) A detailed inspection procedure of the ropes and terminations used at the mine will be posted in the hoist house and will be complied with at all times.

(d) A secondary connection will be securely fastened around the gunboat and securely fastened to the hoisting rope at a point above the main connecting device. The secondary safety connection must meet the safety factor requirements described in Item (b) above and be of the same size as the primary hoist rope, properly terminated above the primary hoist rope attachment with at least two clips on each end or with equivalent strength chains.

(e) At least 2 feet of clearance must be maintained between the highest part of the secondary attachment and the head sheave when the gunboat is positioned in the full dump position.

(f) Within 60 days after the Proposed Decision and Order (PDO) becomes final, the petitioner will submit proposed revisions for its approved 30 CFR part 48 training plan to the District Manager. These proposed revisions will include initial and refresher training regarding compliance with the alternative method stated in the petition and the special terms and conditions stated in the PDO.

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

Docket Number: M-2019-017-C.

Petitioner: Blackjewel, LLC, P.O. Box 249, Stanville, Kentucky 41659.

Mine: D-31 Cut-Through Mine, MSHA I.D. No. 44-06782, located in Lee County, Virginia.

Regulation Affected: 30 CFR 75.1108(c) (Approved conveyor belts).

Modification Request: The petitioner requests a modification of the existing standard to permit the continued use of existing steel cable conveyor belt.

The petitioner states that:

- The D-31 Cut-Through mine is not an active mine and is in non-producing status; however, it is used as a belt corridor to convey coal mined in Kentucky to the preparation and loadout facilities in Virginia. Therefore, no coal is being mined and there is typically only one employee that conducts examinations.

- The mine is approximately 9,500 feet long, is in a straight line, and has portals on each end for access.

- The mine has no belt drives, take-ups, transfer points, nor power underground, other than the low-voltage power required for mine phones, mine monitoring equipment, tracking, and communications.

- The main travelway in the mine is beside the belt so that every time the mine is examined, the belt is examined in its entirety.

- The mine currently has carbon monoxide (CO) monitoring at 1,000 feet spacing for fire detection.

- The mine currently has fire valves for firefighting at a maximum spacing of 300 feet along the belt, with enough hose stored along the belt to reach the entire length of the belt from the valves.

- There are no seals in the mine.

- The existing conveyor belt has been in service since approximately 2003 and has no incidents or issues due to the design and layout of the belt.

- The belt is a steel cable belt with approximately 20,000 feet of belt that is continuous using vulcanized splices with a few temporary maintenance clips here and there. , The belt has never been replaced in its entirety since its installation.

- The petitioner states that the belt has several years of life left on the belt.

- The belt is equipped with turnovers outside on each end of the belt, such that no rollers contact the coal carrying dirty side of the belt anywhere underground. The petitioner states that the design virtually eliminates carryback and reduces significantly the risk of fire associated with the belt. The design also minimizes wear on the rollers.

- There is no return since there is no mining being done in the mine. All entries are intake.

- Belt air velocity is typically greater than 100 feet per minute and over 10,000 cubic feet per minute.

- The mines uses tracking radios, mine phones, and a dial telephone midway for communication.

- Employees in the mine, with usually one employee working in the mine at any time, have two means of escape on either end of the belt.

The petitioner proposes the following actions in order to continue using the conveyor belt currently in use.

(1) Replace the belt with Part 14 compliant belt when it becomes necessary to replace the belt.

(2) Activate a different CO sensor each day by applying 50 parts per millions CO gas until all CO sensors are checked, then repeat.

(3) Inspect the belt and belt entry twice each shift when the belt is running.

The petitioner states that the proposed alternative method will provide a degree of safety that is at least equal to the requirements of the existing standard.

Docket Number: M-2019-018-C.

Petitioner: Hartshorne Mining Group, LLC, P.O. Box 449, Calhoun, Kentucky 42327.

Mine: Poplar Grove Mine, MSHA I.D. No. 15-19806, located in McLean County, Kentucky.

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 nonpermissible electronic surveying equipment including, but not limited to, portable battery-operated mine transits, total station surveying equipment, distance meters, and data loggers, in or inby the last open crosscut.

The petitioner states that:

(1) The alternative method of compliance will allow the mine operator to comply with requirements for mine ventilation maps and mine maps in 30 CFR 75.372 and 75.1200, using the most practical and accurate surveying equipment.

(2) Application of the existing standard would result in a diminution of safety to the miners. Underground mining requires that accurate and precise measurements be completed in a prompt and efficient manner.

(3) All nonpermissible electronic surveying equipment to be used in or inby the last open crosscut will be examined by surveying personnel prior to use to ensure the equipment is being maintained in a safe operating condition. The examination will include the following:

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

(b) Removing the battery and inspecting for corrosion.

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

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

(e) Checking the battery compartment cover or battery attachment to ensure that it is securely fastened.

(4) The results of the examinations will be recorded and retained for 1 year and made available to MSHA on request.

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

(6) Nonpermissible electronic surveying equipment will not be used if methane is detected in concentrations at or above 1.0 percent for the area being surveyed. When 1.0 percent or more methane is detected while such equipment is being used, the equipment will be de-energized immediately and withdrawn outby the last open crosscut.

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

(8) Batteries in the nonpermissible electronic surveying equipment will be changed out or charged in fresh air outby the last open crosscut.

(9) Qualified personnel who use surveying equipment will be properly trained to recognize the hazards associated with the use of nonpermissible electronic surveying equipment in areas where methane may be present.

(10) The nonpermissible electronic surveying equipment will not be put into service in or inby the last open crosscut 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 afforded by the existing standard.

Docket Number: M-2019-019-C.

Petitioner: Hartshorne Mining, LLC, P.O. Box 449, Calhoun, Kentucky 42327.

Mine: Poplar Grove Mine, MSHA I.D. No. 15-19806, located in McLean County, Kentucky.

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 electronic surveying equipment including, but not limited to, portable battery-operated mine transits, total station surveying equipment, distance meters, and data loggers, in return airways.

The petitioner states that:

(1) The alternative method of compliance will allow the mine operator to comply with requirements for mine ventilation maps and mine maps in 30 CFR 75.372 and 75.1200, using the most practical and accurate surveying equipment.

(2) Application of the existing standard would result in a diminution of safety to the miners. Underground mining requires that accurate and precise measurements be completed in a prompt and efficient manner.

(3) 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. The examination will include the following:

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

(b) Removing the battery and inspecting for corrosion.

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

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

(e) Checking the battery compartment cover or battery attachment to ensure that it is securely fastened.

(4) The results of the examinations will be recorded and retained for 1 year and made available to MSHA on request.

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

(6) Nonpermissible electronic surveying equipment will not be used if methane is detected in concentrations at or above 1.0 percent for the area being surveyed. When 1.0 percent or more methane is detected while such equipment is being used, the equipment will be de-energized immediately and withdrawn out of the return airway.

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

(8) Batteries in the nonpermissible electronic surveying equipment will be changed out or charged in fresh air out of the return airway.

(9) Qualified personnel who use surveying equipment will be properly trained to recognize the hazards associated with the use of nonpermissible electronic surveying equipment in areas where methane may be present.

(10) The nonpermissible electronic surveying equipment will not be put into service in the return airway 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 afforded by the existing standard.

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

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