



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: MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209-3939, Attention: Roslyn B. Fontaine, Acting Director, Office of Standards, Regulations, and Variances.

4. Hand-Delivery or Courier: MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209-3939. Individuals who submit comments by hand-delivery 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-2011-040-C.

Petitioner: D & F Deep Mine, 15 Motter Drive, Pine Grove, Pennsylvania 17963

Mine: Buck Drift #2 Mine, MSHA I.D. No. 36-09963, 15 Motter Drive, Pine Grove, Pennsylvania 17963, located in Schuylkill County, Pennsylvania.

Regulation Affected: 30 CFR 75.1100-2(a) (2) (Quantity and location of firefighting equipment).

Modification Request: The petitioner requests a modification of the existing standard to permit the use of portable fire extinguishers only to replace existing requirements where rock dust, water cars, and other water storage equipped with three 10-quart pails is not practical. The petitioner states that:

(1) Equipping its small anthracite mine with two portable fire extinguishers near the slope bottom and an additional portable fire extinguisher within 500 feet of the working face will provide equivalent fire protection.

- (2) Anthracite coal is low in volatile matter and dust is not explosive.
- (3) The working section is at or below mine pool elevation with frequent pumping required to de-water the work area.
- (4) All up-pitch workings of moderate to steep pitch are accessed only through ladders making the carrying of water in pails impractical.
- (5) Electric face equipment is nonexistent in this hand-loading anthracite mine and only air-operated equipment is used in or inby the last open crosscut.
- (6) The history of underground anthracite mines shows that fires occurring in the working faces are nonexistent in recent years due to improved explosives and low volatile matter in anthracite coal.
- (7) This anthracite mine produces far less than the 300 ton per shift criteria using the hand-loading method.
- (8) Belt conveyor haulage is not used in this underground mine for section/main haulage minimizing fire potential. 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-2011-041-C.

Petitioner: D & F Deep Mine, 15 Motter Drive, Pine Grove, Pennsylvania 17963.

Mine: Buck Drift #2 Mine, MSHA I.D. No. 36-09963, 15 Motter Drive, Pine Grove, Pennsylvania 17963, located in Schuylkill County, Pennsylvania.

Regulation Affected: 30 CFR 75.1200(d) & (i) (Mine map).

Modification Request: The petitioner requests a modification of the existing standard to permit the use of cross-sections on mine maps in lieu of contour lines through the intake slope, at locations of rock tunnel connections between veins, and at 1,000 - foot intervals of advance from the intake slope. In addition, the petitioner proposes to limit the required mapping of mine workings above and below to those present within 100 feet of the vein(s) being mined unless the veins are interconnected through rock tunnels to other veins beyond the 100 - foot limit. The petitioner states that:

(1) Due to the steep pitch encountered in mining anthracite coal veins, contours provide no useful information and their presence would make portions of the map illegible.

(2) The use of cross-sections in lieu of contour lines has been practiced since the late 1800's and provides critical information about spacing between veins and proximity to other mine workings, which fluctuate considerably.

(3) The vast majority of current underground anthracite mining involves either second mining of remnant pillars from previous mining/mine operators or the mining of veins of lower quality in proximity to inaccessible and frequently flooded abandoned mine workings that may or may not be mapped.

(4) All mapping for mines above and below is researched by the petitioner's contract engineer for the presence of interconnecting rock tunnels between veins in relation to the Petitioner's mine, and a hazard analysis is done when mapping indicates the presence of known or potentially flooded workings.

(5) When no rock tunnel connections are found, mine workings that exist beyond 100 feet from the mine are recognized as presenting no hazard to the mine due to the pitch of the vein and rock separation.

(6) Additionally, the mine workings above and below are usually inactive and abandoned and, therefore, are not usually subject to changes during the life of the mine.

(7) Where evidence indicates prior mining was conducted on a vein above or below and research exhausts the availability of mine mapping, the vein will be considered mined and flooded and appropriate precautions will be taken through § 75.388, which addresses drilling boreholes in advance of mining, where possible.

(8) Where potential hazards exist and in-mine drilling capabilities limit penetration, surface boreholes may be used to intercept the workings and the results analyzed prior to beginning mining in the affected area.

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-2011-042-C.

Petitioner: D & F Deep Mine, 15 Motter Drive, Pine Grove, Pennsylvania 17963.

Mine: Buck Drift #2 Mine, MSHA I.D. No. 36-09963, 15 Motter Drive, Pine Grove, Pennsylvania 17963, located in Schuylkill County, Pennsylvania.

Regulation Affected: 30 CFR 75.1202 and 1202-1(a) (Temporary notations, revisions and requirements).

Modification Request: The petitioner requests a modification of the existing standard to permit the interval of survey to be established on an annual basis from the initial survey in lieu of every 6 months as required. The petitioner proposes to continue to update the mine map by hand notations on a daily basis and conduct subsequent surveys prior to commencing retreat mining, and whenever either a drilling program under § 75.388 or plan for mining into accessible areas under § 75.389 is required. The petitioner states that:

(1) The low production and slow rate of advance in anthracite mining make surveying on 6-month intervals impractical. In most cases annual development is frequently limited to less than 500 feet of gangway advance with associated up-pitch development.

(2) The vast majority of small anthracite mines is non-mechanized and use hand-loading mining methods.

(3) Development above the active gangway is designed to mine into the level above at designated intervals thereby maintaining sufficient control between both surveyed gangways.

(4) The available engineering/surveyor resources are very limited in the anthracite coal fields and surveying on an annual basis is difficult to achieve, with four individual contractors currently available.

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-2011-043-C.

Petitioner: D & F Deep Mine, 15 Motter Drive, Pine Grove, Pennsylvania 17963.

Mine: Buck Drift #2 Mine, MSHA I.D. No 36-09963, 15 Motter Drive, Pine Grove, Pennsylvania 17963, located in Schuylkill County, Pennsylvania.

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

Modification Request: The petitioner requests a modification of the existing standard for cages, platforms or other devices used to transport persons in shafts or slopes in underground coal mines. The petitioner seeks to permit the use of a slope conveyance (gunboat) to transport persons without installing safety catches or other no less effective devices but instead use an increased rope strength/safety factor and secondary safety rope connection in place of such devices. The petitioner states that:

(1) The haulage slope of this anthracite mine is typical of those in the anthracite region, with a relatively high angle and frequently changing pitches.

(2) A functional safety catch capable of working in slopes with knuckles and curves is not commercially available. A makeshift device would be activated on or by knuckles or curves when no emergency exists. Activation of a safety catch can or will damage the haulage system and subject persons being transported to hazards from dislodged timbering, roof material, or guide rails, and to being battered about within the conveyance.

(3) A safer alternative is to provide secondary safety connections securely fastened around the gunboat and to the hoisting rope above the main termination and use

a hoisting rope having a safety factor greater than that recommended in the American Standards Specifications for the Use of Wire Rope in Mines or at least three times greater than the strength required under section § 75.1431(a).

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.

Dated: December 30, 2011

Patricia W. Silvey
Certifying Officer