



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: 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 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-2016-037-C.

Petitioner: San Juan Coal Company, P.O. Box 561, Waterflow, New Mexico 87421.

Mine: San Juan Mine 1, MSHA I.D. No. 29-02170, located in San Juan County, New Mexico.

Regulation Affected: 30 CFR 75.1506(c)(1) (Refuge alternatives).

Modification Request: The petitioner requests a modification of the existing standard to provide a Built-In-Place Refuge Alternative (BIP-RA), equipped with a borehole to the surface to provide continuous ventilation flow into the BIP-RA, located at a distance not greater than 5,000 feet from the nearest working face in lieu of the existing standard that utilizes portable, self-contained systems. The petitioner states that:

(1) Each miner wears or carries a 1-hour self-contained, self-rescuer (SCSR) and is provided with a second 1-hour unit stored on the working section. That second device can be a self-contained breathing apparatus (SCBA) or additional SCSR devices.

(2) The petitioner proposes to provide SCBA escape equipment on each working section and locate a means of refilling that SCBA in between the nearest working face and the BIP-RA so that an evacuating miner can refill their device on the way to the BIP-RA if necessary. The BIP-RA would be located not more than 5,000 feet from the nearest working face.

(3) During performance testing it has been demonstrated that when walking in the San Juan Mine, a miner can travel over 7,500 feet in 30 minutes.

(4) The BIP-RA breathable air components, harmful gas removal components, and air monitoring components of these installations are MSHA Part 7 approved. This includes the surface and underground components involved and listed in the Part 7 approvals.

(5) The BIP-RA structure and door have been analyzed by a third-party engineering firm with experience in designing bulkheads for the nuclear industry. That firm completed a full analysis of the walls and doors. Their analysis certifies that the structure and doors meet or exceed the 15 psi requirement. The over structure and door design has been approved by the District Manager (DM) as required by 30 CFR 75.1506(a)(2).

(6) These BIP-RA structures have a dedicated borehole to the surface that provides continuous flow of fresh air to the structure at all times via the ventilation forces exerted by the mine's main ventilation fan. When in use, this airflow is supplemented by individual blower fans that are powered by generators. One set of the equipment is maintained for each BIP-RA in service and backup components are also maintained on-site.

(7) The petitioner states that the continuous airflow through the BIP-RA removes heat and humidity and prevents the interior of the structure from exceeding an apparent temperature of 95 degrees Fahrenheit.

(8) The petitioner states that National Institute for Occupational Safety and Health (NIOSH) studies has revealed that up to 60 percent of the contamination concentration outside the RA could enter the RA by miners entering the structure. A BIP-RA with a dedicated borehole providing continuous airflow addresses that

contamination risk by continually diluting the concentration without the limitation of a fixed quantity of purge air. This continuous airflow eliminates the issues of having a finite quantity of breathable air such as currently provided by portable, self-contained systems.

(9) The petitioner states that NIOSH research has shown that a BIP-RA that is provided with a dedicated borehole offers a significant improvement over the use of self-contained systems. NIOSH has stated that if a BIP-RA with a dedicated borehole is used, spacing of those systems can be up to 5,000 feet from the face.

(10) NIOSH recommends taking steps to ensure post-disaster communications from within an occupied RA to the surface. The use of dedicated borehole provides a separate, protected communications pathway from inside the BIP-RA to the surface by routing a communication cable up through the borehole to the surface.

(11) A portable, self-contained RA has a finite length of time that it will provide refuge to miners, and that length of time is impacted by the number of miners inside the RA. If rescue exceeds that finite timeframe, the miners' air supply would be exhausted. These BIP-RA structures at San Juan Mine can be ventilated indefinitely via that dedicated borehole.

Within 60 days after the proposed decision (PDO) and order becomes final, the petitioner will submit proposed revisions for its approved 30 CFR 48 training plan to the DM if MSHA determines that current ongoing training conducted under the existing Emergency Response Plan needs to be supplemented. Such proposed revisions will specify the terms and conditions stated in the PDO.

The petitioner submits that for the reasons and on the terms stated above, utilizing BIP-RAs with dedicated boreholes to the surface equipped with Part 7 approved breathable air components, harmful gas removal components, and air monitoring components, will at all times provide an equivalent or even greater measure of protection as that afforded by the current standard.

Docket Number: M-2016-010-M.

Petitioner: Fred Weber, Inc., 2320 Creve Coeur Mill Road, Maryland Heights, Missouri 63043.

Mine: Joliet MI, LLC Mine, MSHA I.D. No. 11-03153, located in Will County, Illinois.

Regulation Affected: 30 CFR 49.6(a)(1) (Equipment and maintenance requirements).

Modification Request: The petitioner requests a modification of the existing standard to start a mine rescue station consisting of only six self-contained breathing apparatus for a single team at the Joliet mine. The petitioner states that:

(1) There is not enough manpower at the mine to fully staff two functional teams.

(2) As a backup mine rescue team, a fully equipped team from another active mine within two hours of the Joliet mine will be secured through written agreement.

The petitioner asserts that the alternative method will at all times provide the same measure of protection as the existing standard.

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

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