



Billing Code: 4520-43-P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification of Application of Existing Mandatory Safety Standard

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: This notice is a summary of a petition for modification submitted to the Mine Safety and Health Administration (MSHA) by the parties listed below.

DATES: All comments on the petition 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. **Email:** 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 a copy 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: Barbara Barron, Office of Standards, Regulations, and Variances at 202-693-9447 (voice), barron.barbara@dol.gov (email), or 202-693-9441 (fax). [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 (Secretary) 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. Petition for Modification

Docket Number: M-2018-017-C.

Petitioner: Raw Coal Mining Company, Inc., 356 South College Avenue, Bluefield, Virginia 24605.

Mine: EDM No. 1 Mine, MSHA I.D. No. 46-09507, located in McDowell County, West Virginia.

Regulation Affected: 30 CFR 75.1101-1(b) (Deluge-type water spray systems).

Modification Request: The petitioner requests a modification of the existing standard to permit the removal of blow-off dust covers from nozzles on deluge-type water spray systems.

The petitioner states that:

(1) Sections 75.1101-1 through 75.1101-4 set forth various requirements regarding deluge-type water spray systems; among the requirements there is no mandate to inspect and functionally test those systems. The petitioner conducts a weekly inspection and functional test of the complete deluge-type water spray system at its EDM No. 1 Mine.

(2) Currently, the petitioner complies with the requirements of section 75.1101-1(b) by providing each nozzle with a blow-off cover. The petitioner states that because of the frequent inspections and functional testing of the system, the blow-off dust covers are not necessary because the nozzles can be maintained in an unclogged condition through weekly use. Further, it is burdensome to recap the large number of blow-off dust covers after each weekly inspection and functional test.

(3) Petitioner proposes the following alternative method of achieving the result of the standard in section 75.1101-1(b), insofar as it requires that nozzles be provided with blow-off dust covers:

(a) Continue weekly inspection and functional testing of the complete deluge-type water spray system; and

(b) Remove blow-off dust covers from the nozzles.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded by the standard.

Patricia W. Silvey,
Deputy Assistant Secretary for Operations,
Mine Safety and Health Administration.
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