



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 a petition for modification submitted to the Mine Safety and Health Administration (MSHA) by the party 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. 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: Roslyn B. Fontaine, Deputy 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: Roslyn B. Fontaine, Office of Standards, Regulations, and Variances at 202-693-9440 (voice), fontaine.roslyn@dol.gov (email), 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. Petition for Modification

Docket Number: M-2019-006-M.

Petitioner: Hecla Limited, Lucky Friday Unit, 397 Friday Ave., Mullan, ID, 83846.

Mines: Lucky Friday, MSHA I.D. No. 10-00088, located in Shoshone County, Idaho.

Regulation Affected: 30 CFR 57.11052(d) (Refuge areas).

Modification Request: The petitioner requests a modification of the existing standard to allow the mine operator to provide commercially purchased water in sealed bottles instead of a waterline in each of three refuge chambers located in the mine.

The petitioner states that:

(1) During an emergency at the mine, water from a waterline could become non-potable due to potentially damaged waterlines connecting the water source to the refuge chambers.

(2) Given the size of the underground mine, the length of the waterlines, waterline material, and cross connections between operational uses of water and the waterlines that could be plumbed to the refuge chambers, it is impossible to ensure compliance with 40 CFR Part 141, National Primary Drinking Water Regulations.

(3) One of the three refuge chambers is not constructed to allow for the piping of water into the self-contained structure. Alterations or modifications made to the refuge chamber to allow for waterlines would void the warranty. Utilizing commercially purchased, sealed water bottles would allow the continued use of this refuge chamber while still providing continuous access to potable water in case of an emergency.

As an alternative to the existing standard, the petitioner proposes the following:

(a) The operator will supply each of the three refuge chambers with commercially purchased, sealed 5-gallon water bottles, allowing each miner 2.25 quarts of water per day for at least 36 hours in a refuge chamber, given the manufacturer's maximum occupant capacity.

(b) The operator will replace the water bottles with fresh water bottles before the expiration of the shelf life date of the water. The condition and quantity of stored water will be

inspected monthly and specific instructions on water conservation will be included with the refuge supplies.

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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