



DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petition 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 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 AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments identified by Docket No. MSHA-2023-0014 by any of the following methods:

1. *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for submitting comments for MSHA-2023-0026.
2. *Fax:* 202-693-9441.
3. *Email:* petitioncomments@dol.gov
4. *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202-5452.

Attention: S. Aromie Noe, 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. Before visiting MSHA in person, call 202-693-9455 to make an appointment, in keeping with the Department of Labor's COVID-19 policy. Special health precautions may be required.

FOR FURTHER INFORMATION CONTACT: S. Aromie Noe, Office of Standards, Regulations, and Variances at 202-693-9440 (voice), Petitionsformodification@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 (CFR) 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. The application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, sections 44.10 and 44.11 of 30 CFR establish the requirements for filing petitions for modification.

II. Petition for Modification

Docket Number: M-2023-002-M

Petitioner: U.S. Silica Company, 4800 Oklahoma Hwy 1 North, Mill Creek, Oklahoma 74856.

Mine: Mill Creek Plant #37, MSHA ID No. 34-00377, located in Johnston County, Oklahoma.

Regulation Affected: 30 CFR 56.13020 (Use of compressed air).

Modification Request: The petitioner requests a modification of 30 CFR 56.13020 to allow compressed air to be directed towards persons for use in a clothes cleaning booth.

The petitioner states that:

- (a) The petitioner proposes to implement a clothes cleaning process.

(b) The alternative method provides a direct reduction of a miners' exposures to respirable dust, thus reducing their health risks.

(c) The proposed alternative method has been developed jointly between Unimin Corporation and the National Institute for Occupational Safety and Health (NIOSH) and has been successfully tested by NIOSH.

The petitioner proposes the following alternative method:

(a) The petitioner will use a clothes cleaning booth, CCB Elite I, serial number 5406, manufactured by S.K. Bowling, Inc.

(b) Only miners trained in the operation of the clothes cleaning booth (booth) will be permitted to use the booth to clean their clothes.

(c) The petitioner will incorporate the NIOSH Clothes Cleaning Process and manufacturer's instruction manuals into their MSHA part 46 training plan and train affected miners in the process.

(d) Miners entering the booth shall examine valves and nozzles for damage or malfunction and will close the door fully before opening the air valve. Any defects shall be repaired prior to the booth being used.

(e) Miners entering the booth shall wear eye protection, ear plugs or muffs for hearing protection, and respiratory protection meaning a full-face or half-mask respirator that meets or exceeds the minimum requirements of an N95 filter to which the miner has been fit-tested. As an alternative, the use of a full-face respirator will also meet the requirement for eye protection. A sign will be conspicuously posted that states the above personal protective equipment is required when entering the booth.

(f) Air flow through the booth will be at least 2,000 cubic feet per minute (cfm) to maintain negative pressure during the use of the cleaning system in order to prevent contamination of the environment outside the booth. Airflow will be in a downward direction, thereby moving contaminants away from the miner's breathing zone.

(g) Air pressure through the spray manifold will be limited to 30 pounds per square inch or less. A lock box with a single, plant manager-controlled key will be used to prevent regulator tampering.

(h) The spray manifold will consist of a 2-inch square tube with $\frac{1}{4}$ inch wall thickness, capped at the base and actuated by an electrically controlled valve at the top.

(i) Air nozzles shall not exceed 30 pound(s) per square inch gauge.

(j) The uppermost spray of the spray manifold will be located below the booth user's breathing zone. Some type of mechanical device can be used to cover the upper air nozzles to meet the specific height of the user.

(k) Air nozzles shall be guarded to eliminate the possibility of incidental contact, which could create mechanical damage to the air nozzles during the clothes cleaning process.

(l) The petitioner shall conduct periodic maintenance checks of the booth in accordance with the recommendations contained in the manufacturer's instruction manual.

(m) The air receiver tank supplying air to the manifold system will be of sufficient volume to permit no less than 20 seconds of continuous cleaning time.

(n) An appropriate hazard warning sign will be posted on the booth to state, at a minimum, "Compressed Air" and "Respirable Dust."

(o) A pressure relief valve designed for the booth's air reservoir will be installed.

(p) The mine will exhaust dust-laden air from the booth into a local exhaust ventilation system or duct outside the facility while ensuring there is no re-entrainment back into the structure.

In support of the proposed alternative method, the petitioner submitted specifications of the dust booth; installation and operating instructions of the dust booth to be used; and The Dust Control Handbook for Industrial Minerals, Mining, and Processing.

The petitioner asserts that the alternate method proposed will at all times guarantee no less than the same measure of protection afforded the miners under the mandatory standard.

Song-ae Aromie Noe,

Director,

Office of Standards, Regulations, and Variances.

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