



DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petition 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 AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit comments identified by Docket No. MSHA-2023-0027 by any of the following methods:

1. *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for submitting comments for MSHA-2023-0027.
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-2023-001-M

Petitioner: Bunker Hill Mining Corp., 1 Mine Road, Kellogg, ID 83837

Mine: Bunker Hill Mine, MSHA ID No. 10-00083, located in Shoshone County, Idaho.

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

Modification Request: The petitioner requests a modification of 30 CFR 57.11052(d) to allow the mine to use compressed air cylinders to supply air inside the refuge chamber in lieu of the use of a compressed air line and to provide commercially purchased water in sealed bottles inside the refuge chamber in lieu of a waterline.

The petitioner states that:

- (a) The mine is an underground silver, zinc, and lead mine with one refuge chamber that is purpose built with sealed cinder block walls integrated into the mine infrastructure.
- (b) Mining access is by single, lateral development drifts driven through waste rock adjacent to the ore body with entry points on different levels for ore body exploration and development.
- (c) There are generally 15 miners working in the mine when development activities are underway and typically 6 miners working on the same level as the refuge chamber, one to two times a week, for approximately 6 hours at each time.
- (d) There is no natural or potable water source at the mine readily available to supply water through a waterline. The storage of commercially purchased bottled water will ensure that high-quality water is available to miners in the refuge chamber, without risk of damage to a waterline.
- (e) The mine does not have usable compressed air lines throughout the mine. Due to insufficient power supply, the mine currently uses portable diesel compressors to supply compressed air periodically. However, portable diesel compressors are subject to damage or failure, so the use of portable diesel compressors to supply constant air through compressed air lines for refuge chambers is not practical or safe.

The petitioner proposes the following alternative method:

- (a) The refuge chamber shall have drinking water supplied with commercially purchased water in sealed bottles inside the chamber.
 - (1) The water provided shall be sufficient for 6 miners for a 96 hour period. Six cases, each consisting of 32, 16.9 fluid ounce bottles of commercially bottled water shall be maintained in the refuge chamber.
 - (2) The bottled water shall be visually inspected monthly.

(3) The bottled water shall be replaced every 2 years or sooner in the event of damage, usage, or degradation.

(b) There shall be 4 compressed air cylinders, supplied by OXARC, inc., in the refuge chamber, each providing 322 cubic feet of compressed air.

(1) Each compressed air cylinder shall provide a minimum of 24 hours of air at a setting of 6 liters per minute or 1.32 cubic feet per hour per person of air. The total time of sufficient air provided by the 4 compressed air cylinders shall be at least 96 hours.

(2) The compressed air cylinders shall be inspected monthly during escapeway inspections to ensure that the cylinders have sufficient air and are properly maintaining pressure.

(3) Carbon dioxide (CO₂) scrubbing inside the refuge chamber shall be administered using ChemBio Enviro curtains (MSHA approval #07-LPA130002).

(4) There shall be 6 units of curtains in the refuge chamber with each curtain supplying each miner with 96 hours of CO₂ scrubbing capability.

(c) All underground personnel shall be trained on the operation of the air cylinders to release air and water rationing for a 96-hour period.

The petitioner provided a ventilation and emergency escape map that shows the refuge chamber location and primary and secondary escapeways, among other information.

The petitioner asserts that the alternative 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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