



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 Peabody Powder River Mining LLC.

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-2025-0257 by any of the following methods:

1. *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for submitting comments for MSHA-2025-0257.

2. *Fax:* 202-693-9441.

3. *Email:* petitioncomments@dol.gov

4. *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations, and Variances, Room C3522, 200 Constitution Ave NW, Washington, DC 20210.

Attention: Jessica D. Senk, Acting Director, Office of Standards, Regulations, and Variances.

Persons delivering documents are required to check in at the receptionist's desk. Individuals may inspect copies of the petition and comments during normal business hours at the address listed above. Before visiting MSHA in person, call 202-693-9440 to make an appointment.

FOR FURTHER INFORMATION CONTACT: Jessica D. Senk, Acting Director, 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-2025-053-C

Petitioner: Peabody Powder River Mining LLC, Caller Box 3035, Gillette, Wyoming 82716.

Mine: North Antelope Rochelle Mine, MSHA ID No. 48-01353, located in Campbell County, Wyoming.

Regulation Affected: 30 CFR 77.404(a), Machinery and equipment; operation and maintenance.

Modification Request: The petitioner is requesting a modification to 30 CFR 77.404(a) to permit alternative methods of compliance to permit the mine to maintain haul truck cab windows locked shut. Specifically, the petitioner seeks approval to securely lock or otherwise render inoperable the side windows of haul truck cabs, while maintaining all other manufacturer safety features,

including functional air conditioning and dust-control systems and emergency egress options as originally designed.

The petitioner states that:

(a) Peabody seeks modification of 30 CFR 77.404(a) as it pertains to haul truck windows.

That standard provides: Mobile and stationary machinery and equipment shall be maintained in safe operating condition and machinery or equipment in unsafe condition shall be removed from service immediately.

(b) The Mine Safety and Health Administration (MSHA) has communicated an interpretation of this provision to require that haul truck cab windows remain operable as manufactured. On July 18, 2025, the Gillette Field Office Supervisor informed the mine that the haul truck cab windows should open, without identifying a safety hazard, because that is how it came from the manufacturer, ignoring the fact that MSHA inspectors will cite the mine if they see a haul truck window open.

(c) Peabody requests a modification of 30 CFR 77.404(a) as applied to all haul trucks operated at the mine. Specifically, the petitioner seeks approval to securely lock or otherwise render inoperable the side windows of haul truck cabs, while maintaining all other manufacturer safety features, including functional air conditioning and dust-control systems and emergency egress options as originally designed.

(d) Haul trucks used at the mine are equipped with fully enclosed, filtered cabs with manufacturer-installed air conditioning and dust control systems. Cab windows are locked shut to eliminate exposure to airborne respirable dust, silica, and noise. The windows on these haul trucks are not designed or designated as emergency exits. Alternative manufacturer-designed egress routes remain fully available.

(e) All haul trucks are maintained under a strict preventive maintenance program to ensure that air conditioning and filtration systems remain in proper working order. Any unit with inoperative systems is immediately removed from service.

(f) Peabody believes that allowing the windows to open increases the risk of respirable dust and silica exposure, directly undermining MSHA's health and dust control standards. Dust entering the cab also reduces visibility, increases fatigue, and creates an unsafe operating environment.

(g) There would be no diminution of safety because cab windows are not emergency exits. Securing the windows closed does not impair escape or rescue in an emergency. Also, the cabs are climate-controlled, so heat stress or ventilation needs are fully addressed by the air conditioning and dust-control systems. In fact, an open window directly impedes the efficacy of the cabs' dust-control system.

(h) There would be an increase in safety because locking windows reduces operator exposure to dust, noise, and distractions, thereby improving health and operational safety. Application of the standard results in a diminution of safety.

(i) This alternative will provide at least an equal measure of protection as the original standard by ensuring operators work in a clean, climate-controlled, dust-free cab environment.

(j) The requested modification eliminates an identified hazard (exposure to airborne dust and silica) without affecting safe machine operation or emergency egress. Granting this petition will enhance safety and health for all equipment operators at the mine.

(k) The alternative method will at all times guarantee no less than the same measure of protection afforded the miners under the mandatory standard.

The petitioner proposes the following alternative method:

(a) Maintain cab windows in a locked, closed position on all haul trucks.

(b) Ensure that the air conditioning and dust filtration systems are fully functional before placing any truck into service. Any haul truck with non-functional systems shall be removed from service until repaired.

(c) Conduct regular inspections and preventive maintenance on all sealed cab systems.

(d) The miners at North Antelope Rochelle Mine are not represented by a labor organization and the Petition has been posted on the mine bulletin board on July 29, 2025.

The petitioner asserts that the alternative method will guarantee no less than the same measure of protection afforded the miners under the mandatory standard.

Jessica D. Senk,

Acting Director,

Office of Standards, Regulations, and Variances.

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