DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 14, 18, and 75

RIN 1219–AA92

Requirements for Approval of Flame-Resistant Conveyor Belts

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Proposed rule; withdrawal.

SUMMARY: This document withdraws the proposed rule that would have established a new laboratory-scale flame test for conveyor belts used in underground coal mines. This rulemaking was initiated in 1989 in response to a number, over the prior 12 years, of reportable (*i.e.,* greater than 30 minutes) conveyor belt fires attributable to belt material. Since that time, accident and injury data reflect a decline in the number of these fires. We attribute this decrease in conveyor belt fires to improvements in belt monitoring and maintenance, along with technological advances in conveyor systems. Therefore, in the absence of a need for rulemaking, MSHA is withdrawing the proposed rule.

DATES: This proposed rule published on December 24, 1992, is withdrawn as of July 15, 2002.

FOR FURTHER INFORMATION CONTACT: Marvin W. Nichols, Jr., Director, Office of Standards, Regulations, and Variances, MSHA, 1100 Wilson Blvd., Room 2313, Arlington, Virginia 22209–3939, *Nichols-Marvin@msha.gov,* (202) 693–9440 (telephone), (202) 693–9441 (facsimile). You can request a copy of this withdrawal notice in an alternate format, such as a large print version, an electronic file or a file on a disk. This withdrawal notice is available on MSHA's Internet site, *http://www.msha.gov,* at the ''Statutory and Regulatory Information'' icon.

SUPPLEMENTARY INFORMATION:

A. Background

On January 17, 1989, in response to a number of conveyor belt fires in underground coal mines, MSHA announced a public meeting to discuss the development of a revised laboratory-scale flame resistance test for conveyor belts (54 FR 1802). MSHA investigated 293 underground coal mine fires between 1970 and 1988, and determined that conveyor belts were involved in 53 of those fires. During this 19 year period, 36 of the 53 belt fires (68%) occurred during the 9 years between 1980 and 1988.

After reviewing the testimony and comments from the mining and manufacturing communities, as well as the specific recommendations from MSHA's Belt Air Advisory Committee, ''Belt Entry Ventilation Review: Report of Findings and Recommendations'' (1989), MSHA chose to pursue rulemaking. During the next several years, MSHA worked closely with the former Bureau of Mines to develop a new laboratory-scale test for determining the flame resistance of conveyor belts, and the two agencies jointly developed a laboratory-scale test for assessing the flame resistance of conveyor belts which would measure flame propagation rather than burn time, as the current test does. On December 24, 1992, MSHA published the proposed rule (57 FR 61524) which would have replaced the existing standards for testing and acceptance of conveyor belts with the new test.

B. Reasons for Withdrawal

The number of conveyor belt fires has significantly declined since MSHA began work on this rulemaking. During the 10 years since this proposed rule was published (1993–2002), the industry reported 10 conveyor belt fires, as compared with the 34 reported fires during the 10 years before publication (1983–1992). Further, the injuries to miners from the fires reported since MSHA initiated this rulemaking consist of smoke inhalation during two of the fires. This decrease is due largely to belt monitoring improvements that alert miners to potentially hazardous situations which could cause fires, and to technological advances that minimize friction on the belt, a primary cause of belt fires.

The most notable improvement in belt monitoring is the mining industry's increased use of atmospheric monitoring systems (AMS)in conveyor belt passageways. Monitoring systems in general give advance warning to allow a fire in a belt entry to be addressed sooner, thereby limiting potential fire damage and injuries to miners. An AMS can further provide advance warning of carbon monoxide (CO) and methane (CH_4) concentrations, thereby allowing the opportunity to address potentially hazardous situations.

Although AMSs have been in use for many years, these systems have rapidly become more sophisticated, evolving from simple monitors into complex devices with integral computer technology capable of transmitting environmental measurements from remote locations to attended mine areas.

The industry practice of ventilating active working places in the mine with air coursed through the belt haulageway has contributed to the increased use of belt monitoring systems, and has thereby indirectly contributed to the decrease in the severity of belt fires. Currently this practice is only allowed in a mine after MSHA grants a petition for modification of the safety standard that requires entries used to course air to the mine face and working areas to be separate from belt haulage entries.

During the past 15 years, MSHA has granted more than 100 of these petitions. Each petition involves a thorough on-site investigation to determine that safety measures exist to address the concerns normally associated with coursing belt air to working places. The primary concern is combustion products from a fire on or near the conveyor belt being carried to the miners. The required system of safeguards, which includes ability to monitor and detect conditions which could contribute to fires in the belt haulageway, is actively in place at all these mines. MSHA is currently pursuing a separate rulemaking that would permit the use of belt air in active working places, conditioned on the use of AMS systems, required for approval of these petitions, as well as additional safety measures.

The mining industry has also benefitted from many technological advances in conveyor belt systems, and has applied this technology at many mines since this proposed rule was published. Improvements in belt rollers, roller bearings, slippage alignment, and belt rip detection have been instrumental in minimizing friction. Also, flame-resistant pulley lagging and roller covers are available for belt rollers. Some roller bearings are permanently sealed, which prevents combustible lubricants from igniting and involving the belt, and also eliminates some maintenance requirements. A number of slippage control systems which monitor the sequence systems on each conveyor are in use today. When a conveyor is not moving, a slippage switch automatically shuts down all conveyors behind the stopped conveyor. Rip detection systems continually scan the belt and notify miners of rips or tears.

A number of devices, such as chute liners and belt skirting, control the flow of coal at transfer points. These devices not only reduce the amount of coal that spills, thereby minimizing a source of combustible material, but also help reduce the level of combustible coal dust in the atmosphere. Finally, automated systems provide more reliable and accurate readings of

conditions that could potentially result in hazards to miners.

For all the reasons stated herein, this proposed rule is withdrawn.

Signed at Arlington, VA, this 8th day of July 2002.

Dave D. Lauriski,

Assistant Secretary of Labor for Mine Safety and Health.

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 917

[KY–240–FOR]

Kentucky Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: We are proposing the removal of two instructions to the State of Kentucky pertaining to required amendments to the Kentucky regulatory program (the ''Kentucky program''). The Kentucky program was established under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act) and authorizes Kentucky to regulate surface coal mining and reclamation operations in Kentucky. We are proposing to remove the instructions because the actions we required have either been satisfied or are no longer applicable and nothing further is required by the state. This document gives the times and locations that the Kentucky program is available for your inspection, the comment period during which you may submit written comments on the proposed actions, and the procedures that we will follow for the public hearing, if one is requested.

DATES: We will accept written comments on these proposed actions until 4 p.m., e.s.t. August 14, 2002. If requested, we will hold a public hearing on the proposed actions on August 9, 2002. We will accept requests to speak at a hearing until 4:00 p.m., e.s.t. on July 30, 2002.

ADDRESSES: You should mail or hand deliver written comments and requests to speak at the hearing to William J. Kovacic at the address listed below.

You may review copies of the Kentucky program, a listing of any scheduled public hearings, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays.

William J. Kovacic, Lexington Field Office, Office of Surface Mining Reclamation and Enforcement, 2675 Regency Road, Lexington, Kentucky 40503, Telephone: (859)260–8400. E-mail: *bkovacic@osmre.gov.*

Department of Surface Mining Reclamation and Enforcement, 2 Hudson Hollow Complex, Frankfort, Kentucky 40601, Telephone: (502)564–6940.

FOR FURTHER INFORMATION CONTACT: William J. Kovacic, Telephone: (859)260–8400. Internet: *bkovacic@osmre.gov.*

SUPPLEMENTARY INFORMATION:

I. Background on the Kentucky Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, ''a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of the Act * * *; and rules and regulations consistent with regulations issued by the Secretary pursuant to the Act.'' *See* 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Kentucky program on May 18, 1982. You can find background information on the Kentucky program, including the Secretary's findings, the disposition of comments, and conditions of approval of the Kentucky program in the May 18, 1982, **Federal Register** (47 FR 21404). You can also find later actions concerning Kentucky's program and program amendments at 30 CFR 917.11, 917.12, 917.13, 917.15, 917.16, and 917.17.

II. Description of the Proposed Actions

At 30 CFR 917.16(c)(2), we required Kentucky to submit proposed regulations to implement the program changes contained in Senate Bill (SB) 374. SB 374 added a new section to Kentucky's statutes pertaining to the issuance of special permits for the remining of previously affected mined areas. However, SB 374 specifically prohibits its own implementation until implementing regulations are promulgated by Kentucky and approved by OSM. In addition, 30 CFR 732.17(g) prohibits States from implementing proposed amendments to their programs until OSM approves the amendments. Because OSM determined that SB 374 could not be implemented without accompanying regulations, SB 374 is not a functioning part of the approved State program until promulgation of such regulations. *See* 51 FR 26002, 26005 (July 18, 1986). For these reasons, the requirement codified at 30 CFR 917.16(c)(2) is unnecessary and should be removed.

At 30 CFR 917.16(o), we required Kentucky to submit a program change to the Kentucky Revised Statutes at 350.060 to: (1) clarify that a person may not continue to conduct surface coal mining operations under an expired permit unless the permittee filed a complete application for renewal at least 120 days before the permit expired and the regulatory authority had not yet approved or disapproved the application when the permit expired, and (2) require the issuance of an imminent harm cessation order to any person conducting surface coal mining operations under an expired permit unless the permittee filed a complete application for renewal at least 120 days before the permit expired and the regulatory authority had not yet approved or disapproved the application when the permit expired. On September 6, 2000, we announced the preemption and supersession of KRS 350.060(16) because it was inconsistent with the requirements of SMCRA (65 FR 53909). Because both our disapproval and subsequent supersession of the quoted provisions of the statute prevent Kentucky from implementing those provisions, and because the Kentucky program otherwise requires issuance of imminent harm cessation orders to persons conducting surface coal mining operations under expired permits, we believe that the requirements codified at 30 CFR 917.16(o) are no longer necessary and should therefore be removed.

III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking your comments on whether the amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the State program.

Written Comments

Send your written or electronic comments to OSM at the address given