

**DEPARTMENT OF LABOR**

**Mine Safety and Health Administration**

**Proposed Information Collection Request Submitted for Public Comment and Recommendations; Application for Waiver of Surface Facilities Requirements**

**ACTION:** Notice.

**SUMMARY:** The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

**DATES:** Submit comments on or before May 24, 2004.

**ADDRESSES:** Send comments to Darrin A. King, Chief, Records Management Branch, 1100 Wilson Boulevard, Room 2139, Arlington, VA 22209-3939. Commenters are encouraged to send their comments on a computer disk, or via Internet E-mail to [king.darrin@dol.gov](mailto:king.darrin@dol.gov), along with an original printed copy. Mr. King can be reached at (202) 693-9838 (voice), or (202) 693-9826 (facsimile).

**FOR FURTHER INFORMATION CONTACT:** Contact the employee listed in the **ADDRESSES** section of this notice.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

Title 30, §§ 71.400 through 71.402 and 75.1712-1 through 75.1712-3 require coal mine operators to provide bathing facilities, clothing change rooms, and

sanitary flush toilet facilities in a location that is convenient for use of the miners. If the operator is unable to meet any or all of the requirements, he/she may apply for a waiver. Title 30 CFR 71.403, 71.404, 75.1712-4 and 75.1712-5 provide procedures by which an operator may apply for and be granted a waiver. Applications are filed with the District Manager for the district in which the mine is located and contain the name and address of the mine operator, name and location of the mine, and a detailed statement of the grounds upon which the waiver is requested and the period of time for which it is requested. Waivers for surface coal mines may be granted for a period not to exceed one year; requests for an annual extension may be sought by the operator. Waivers for underground coal mines may be granted for extended periods of time based on the information provided by the mine operator in the request for a waiver.

The purpose of the waiver is to assure the conditions at the mine make it impractical for the mine operator to provide the required facilities, and to document the circumstances for granting of the waiver. This gives the mine operator written documentation that the requirement(s) of the standard have been waived by MSHA and MSHA inspection personnel will not require the mine operator to comply with the part(s) of the standard included in the waiver. Without this written documentation MSHA inspection personnel can not be assured that a mine operator is not required to provide the required sanitary facilities.

**II. Desired Focus of Comments**

MSHA is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the

proposed collection of information, including the validity of the methodology and assumptions used;

- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

A copy of the proposed information collection request may be viewed on the Internet by accessing the MSHA Home Page (<http://www.msha.gov>) and selecting "Statutory and Regulatory Information" then "Paperwork Reduction Act Submissions (<http://www.msha.gov/regspwork.htm>)", or by contacting the employee listed above in the **FOR FURTHER INFORMATION CONTACT** section of this notice for a hard copy.

**III. Current Action**

Currently, the Mine Safety and Health Administration (MSHA) is soliciting comments concerning the proposed extension of the information collection related to the Application for Waiver of Surface Facilities Requirement.

This information is necessary in order to assure the mine operator is not required to provide the surface facilities as required by the standard. This information provides written documentation that MSHA has waived the requirements for the applicable part(s) of the standard as outlined in the waiver.

*Type of Review:* Extension.

*Agency:* Mine Safety and Health Administration.

*Title:* Application for Waiver of Surface Facilities Requirements.

*OMB Number:* 1219-0024.

*Affected Public:* Business or other for-profit.

*Number of Respondents:* 225.

Cite/reference	Annual responses	Frequency	Average time per response (in minutes)	Burden Hours (in hours)
71.403 ..... 71.404 Initial	96	On occasion .....	30	48
71.403 ..... 71.404 Extensions	437	Annually .....	20	146
75.1712-4 ..... 75.1712-5 Initial	129	On occasion .....	30	65

Cite/reference	Annual responses	Frequency	Average time per response (in minutes)	Burden Hours (in hours)
75.1712-4 ..... 75.1712-5 Extension	0	Annually .....	20	0
Totals .....	662	.....	.....	259

*Total Burden Cost (capital/startup):* \$0.

*Total Burden Cost (operating/maintaining):* \$0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated at Arlington, Virginia, this 15th day of March, 2004.

**David L. Meyer,**

*Director, Office of Administration and Management.*

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**BILLING CODE 4510-43-P**

## DEPARTMENT OF LABOR

### Mine Safety and Health Administration

#### Petitions for Modification

The following parties have filed petitions to modify the application of existing safety standards under section 101(c) of the Federal Mine Safety and Health Act of 1977.

#### 1. The Coteau Properties Company

[Docket No. M-2004-009-C]

The Coteau Properties Company, 204 County Road 15, Beulah, North Dakota 58523-9475 has filed a petition to modify the application of 30 CFR 77.803 (Fail safe ground check circuits on high-voltage resistance grounded systems) to its Freedom Mine (MSHA I.D. No. 32-00595) located in Mercer County, North Dakota. The petitioner requests a modification of the existing standard to allow an alternative method of compliance when the boom/mast is raised or lowered during construction/maintenance, most likely only during disassembly or major maintenance. The petitioner proposes to use this procedure only to raise or lower the boom/mast on draglines using the on-board motor generator sets. The petitioner states that during this period of construction/maintenance, the machine will not move under its own power and will not perform mining operations. The procedure would most likely be used only in instances of

disassembly or major maintenance, which require the boom to be raised or lowered, and a written procedure would be developed and implemented by the mine operator or contractor and the affected persons will be trained on the requirements of the procedure. The petitioner further states that this procedure does not replace other mechanical precautions or the requirements of 30 CFR 77.405(b) that are necessary to safely secure booms/masts during construction or maintenance procedures. The petitioner asserts that its proposed alternative method would not result in a diminution of safety to the miners.

#### 2. TXU-Mining Company LP

[Docket No. M-2004-010-C]

TXU-Mining Company LP, 1601 Bryan Street, Dallas, Texas 75201-3411 has filed a petition to modify the application of 30 CFR 77.803 (Fail safe ground check circuits on high-voltage resistance grounded systems) to its Big Brown Strip Mine (MSHA I.D. No. 41-01192) located in Freestone County, Texas; Winfield North Strip Mine (MSHA I.D. No. 41-01900) and Winfield South Strip Mine (MSHA I.D. No. 41-03658) located in Titus County, Texas; Beckville Strip Mine (MSHA I.D. No. 41-02632) and Tatum Strip Mine (MSHA I.D. No. 41-03659) located in Panola County, Texas; and Oak Hill Strip Mine (MSHA I.D. No. 41-03660) located in Rusk County, Texas. The petitioner requests a modification of the existing standard to allow an alternative method of compliance when the boom/mast is raised or lowered during necessary repairs. The petitioner states that during the procedure for raising and lowering the boom for construction/maintenance, the machine will not be performing mining operations. The procedure would also be applicable in instances of disassembly or major maintenance which require the boom to be raised or lowered. The petitioner further states that the procedures of raising and lowering the boom/mast during disassembly or major maintenance would be performed on an as needed basis; and training and review of the procedures would be conducted

prior to each time it is needed since raising and lowering the boom is done infrequently with long intervals of time between each occurrence, and all persons involved in the process will be trained or retrained at that time. The petitioner has listed specific guidelines in this petition that would be followed to minimize the potential for electrical power loss during this critical boom procedure. The petitioner asserts that this procedure does not replace other mechanical precautions or the requirements 30 CFR 77.405(b) that are necessary to safely secure boom/masts during construction or maintenance procedures and that its proposed alternative method would not result in a diminution of safety to the miners.

#### 3. Speed Mining, Inc.

[Docket No. M-2004-011-C]

Speed Mining, Inc., 1001 Pennsylvania Avenue, NW., Washington, DC 20004-2595 has filed a petition to modify the application of 30 CFR 75.1700 (Oil and gas wells) to its American Eagle Mine (MSHA I.D. No. 46-05437) located in Kanawha County, West Virginia. The petitioner requests that its previously granted petition for modification, docket number M-2002-082-C, be amended to permit the mining through of certain wells located within the projected workings of the Speed Mining, Inc., American Eagle Mine. The petitioner requests an amendment to the petition, but requests that no portion of the existing modification be revoked. The petitioner is requesting the petition to be amended because the existing modification does not address certain kinds of wells and plugging conditions that it expects to encounter imminently at the American Eagle Mine. The petitioner asserts that the granting of this petition to amend would at all times guarantee no less than the same measure of protection as the existing standard or the alternative requirements in Paragraph 1 of the existing modification and will prevent a diminution of safety to the miners.

#### Request for Comments

Persons interested in these petitions are encouraged to submit comments via