

**DEPARTMENT OF LABOR****Mine Safety and Health Administration****Petitions 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 petitions for modification submitted to the Mine Safety and Health Administration (MSHA) by the parties listed below.

**DATES:** All comments on the petitions must be received by MSHA's Office of Standards, Regulations, and Variances on or before December 20, 2019.

**ADDRESSES:** You may submit your comments, identified by "docket number" on the subject line, by any of the following methods:

1. *Email:* [zzMSHA-comments@dol.gov](mailto:zzMSHA-comments@dol.gov) Include the docket number of the petition in the subject line of the message.

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

3. *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202-5452, Attention: Sheila McConnell, 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 a copy of the petition and comments during normal business hours at the address listed above.

MSHA will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments.

**FOR FURTHER INFORMATION CONTACT:** Sheila McConnell, Office of Standards, Regulations, and Variances at 202-693-9440 (voice), [McConnell.Sheila.A@dol.gov](mailto:McConnell.Sheila.A@dol.gov) (email), or 202-693-9441 (facsimile). [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 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 (Secretary) 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, the regulations at 30 CFR 44.10 and 44.11 establish the requirements for filing petitions for modification.

**II. Petitions for Modification**

*Docket Number:* M-2019-054-C.

*Petitioner:* Castle Valley Mining LLC, P.O. Box 475, Huntington, UT 84528.

*Mines:* Castle Valley Mine #3, MSHA I.D. No. 42-02263 and Castle Valley Mine #4, MSHA I.D. No. 42-02335, located in Emery County, UT.

*Regulation Affected:* 75.1909(b)(6) (Nonpermissible diesel-powered equipment; design and performance requirements).

*Modification Request:* The petitioner requests a modification of the existing standard to allow use of a Getman Corporation, Getman RDG 1504-C Diesel Roadbuilder, Serial No. 6579, a four-wheel-drive, low-profile unit equipped with a grader blade that can be outfitted for underground mining operations, as it was originally designed without front brakes.

The petitioner states that:

(1) The petitioner utilizes a Getman Corporation, Getman RDG 1504-C Diesel Roadbuilder at the Castle Valley No. 3 and Castle Valley No. 4 mines. The Getman Roadbuilder was manufactured without front wheel brakes.

(2) The petitioner states that it is not feasible to install front wheel brakes on the Getman Roadbuilder.

As an alternative to the existing standard, the petitioner proposes the following:

(a) The petitioner will limit the maximum speed of the Getman Roadbuilder to 10 miles per hour (MPH) by permanently blocking out any gear that would provide a higher speed than 10 MPH. This would limit the vehicle speed in both forward and reverse to a maximum of 10 MPH.

(b) The petitioner will train the grade operator to drop the grader blade in the event that the brakes fail.

(c) The petitioner asserts that the proposed alternative method of limiting the Getman Roadbuilder's speed to 10 MPH and training the grade operator guarantees no less than the same measure of protection afforded by the

existing standard under 30 CFR 75.1909(b)(6).

*Docket Number:* M-2019-055-C.

*Petitioner:* INMET Mining, LLC, 144 E Market Place Blvd., Knoxville, TN 37922.

*Mine:* D-31 Cut Through, MSHA I.D. No. 44-06782, located in Lee County, Virginia.

*Regulation Affected:* 30 CFR 75.1108(c) (Approved conveyor belts).

*Modification Request:* The petitioner requests a modification of the existing 30 CFR 75.1108(c) standard as applied to the conveyor belt that travels through the D-31 Cut Through Mine connecting the operator's Kentucky Mining Operations to the Preparation Plant located at St. Charles, VA. The petitioner submits that a modification of the Part 14 belt standard is warranted because the existing safety measures that the petitioner has in place will make the conveyor belt in the D-31 Cut Through Mine as safe as is required by Part 14.

The petitioner states that:

(1) The D-31 Cut Through Mine was developed in the late 1990's in order to create a belt conveyor corridor from the operator's Kentucky Mining Operations to the P-14 Preparation Plant at St. Charles, VA (MSHA ID No. 44-05898). The belt conveyor corridor through the mountain ridge was created to avoid the trucking of raw coal and rock products through a dangerous, narrow road to get to the P-14 Preparation Plant. The D-31 Cut Through Mine transports coal, via the conveyor belt, from D28 Huff Creek Mine (MSHA ID No. 15-17234), the D29 Darby Fork Mine (MSHA ID No. 15-02263), and D30 Clover Fork Mine (MSHA ID No. 15-18647). The underground mines belt the coal to the Central Surface Stockpile area, where it is fed onto the conveyor belt and transported to the P-14 Preparation Plant.

(2) The D-31 Cut Through Mine is approximately 9,300 feet in depth or length. It has approximately 1,200 feet of maximum cover at the center of the ridge and it has 600 feet of cover overall. The mine has two surface portals, one at either side of the ridge, and an immediate escape-way in either direction from underground.

(3) Once the main line was advanced through the mountain ridge, underground mining activities were halted and the equipment was removed. In 2003, the mine became Active Non-Producing Status and a steel cable belting conveyor was installed to go from the Day's Creek Stockpile Area to the P-14 Preparation Plant.

(4) The conveyor belt is a continuous belt system, without any underground

transfer points, head drives, or major infrastructure other than the belt system itself. The tail piece of the belting conveyor is outside of the mine on the Day's Creek Stockpile Area side and the Head Drive is outside of the mine on the P-14 Preparation Plant side.

(5) The mine ventilation is purely intake air from all four-five headings. The ventilation system intakes from the Day's Creek Stockpile Area side to the main mine fan, which is located on the P-14 Preparation Plant side. There are no worked out, sealed, gob, or face areas in the mine, allowing for air intake throughout.

The petitioner proposes the following alternative method:

(a) Due to the existing fire safety features within the D-31 Cut Through belting corridor, the operator is petitioning for the continued use of the existing steel cable conveyor belt in the D-31 Cut Through Mine.

(b) The only underground electrical power sources in the mine are low voltages and used to operate underground mine phones, belt monitoring equipment, employee tracking, and communication equipment.

(c) There are no underground belt drives, take-up units or transfer points, reducing the potential for frictional heat sources in the mine.

(d) The belt conveyor, which has been in operation since 2003, is one continuous length (19,500 lineal feet), using vulcanized splices, reducing the heat potential.

(e) The mine has a three-inch water line running parallel to the entire length of the belt conveyor along with fire valves every 300 feet along the belt conveyor.

(f) Fire-fighting equipment is accessible at both the surface portals and in the underground mine. In addition, an underground fire-fighting hose is stored along the belt conveyor and it can reach the entirety of the belt conveyor from the fire valves.

(g) The main travelway of the D-31 Cut Through Mine is adjacent to the belt conveyor, so that the examination of the entire belt conveyor is possible each time the travelway is examined.

(h) A certified foreman examines the conveyor belt each shift it is in operation. All hazardous conditions are recorded in an examination book that is kept at the surface. Hazardous conditions are corrected according to 30 CFR.

(i) The Certified Foreman(s) making the examinations are equipped with gas detection equipment to monitor the mine atmosphere for potential harmful gases and or potential fires.

(j) The Certified Foreman(s) are equipped with heat detection equipment to check the temperature of the belting conveyor and the associated belt idlers to detect the possible increase of temperature and replace belt idles early to reduce the heat and fire potential.

(k) The mine has CO monitors at 1,000 foot intervals along the belt conveyor that are continuously checked from a central location.

(l) There is no coal production, so there is no return air course. All entries are intake air. The belt air velocity is typically greater than 100 feet per minute. CO monitors along the belt conveyor alert the command center when CO levels reach 8PPM above ambient. If CO levels are above 13PPM, an alarm is sounded.

(m) The D-31 Cut Through Mine does not have a history of Methane gas.

(n) The mine is open at both ends, so that if the mechanical ventilation fan stops due to mechanical issues, natural ventilation will still occur.

(o) The mine has portals at both ends of the mine and employees have additional escape-ways if there is an emergency.

(p) The Certified Foreman and other employees are tracked throughout the mine and their locations are monitored. These individuals communicate through hand held radios, underground mine phones, and a dial up telephone that is located midway through the underground mine.

(q) Each end of the belt has turnovers so that no belt rollers come in contact with the coal carrying dirty side of the belt. This lowers fire risks, since combustible material does not come in contact with the belt during belt turnovers.

(r) Since the underground mine does not have belt drives, transfer points or take up units, combustible materials including grease and oil are not used.

(s) The state of Kentucky and the state of Virginia have committed emergency mine rescue teams within one hour from the mine in the event of an emergency.

(t) Unless there is additional work required, miner exposure to the D-31 Cut Through Mine is minimal and limited to: Inspection by the Certified Foreman; occasional clean up; and belt replacements.

(u) The underground floor and coal ribs are generally damp, which reduces the possibility of a fire.

(v) Since being built in 2003, there have been no accidents related to the belt conveyor or the D-31 Cut Through.

(w) The operator wishes to continue to use the existing belt in the D-31 Cut Through until the end of its life, which

is approximately 5 years. Once the current belt needs to be replaced, it will be done so with Part 14 approved belting. The operator finds that if the purpose of 75.1108(c) is to reduce the potential for a fire, the current safeguards meet such a fire safety standard.

*Docket Number:* M-2019-056-C.

*Petitioner:* Marfork Coal Company, LLC, P.O. Box 457, Whitesville, WV 25209.

*Mine:* Markfork Processing, MSHA I.D. No. 46-08374, located in Raleigh County, West Virginia.

*Regulation Affected:* 30 CFR 77.214(a) (Refuse piles; general).

*Modification Request:* The petitioner requests a modification of the existing 30 CFR 77.214(a) standard as applied to refuse piles. The petitioner is requesting this modification in order to backfill six abandoned mine openings with coal refuse as an alternative to 30 CFR 77.214(a), which does not allow locating refuse piles over abandoned mine openings.

The petitioner states that:

(6) The six mine openings to be backfilled are located in the Winifrede seam, which has an elevation of between 2000' and 2030'. The six mine openings were formerly associated with the abandoned Dorothy Mine that was operated by C&O Railway Fuel Mine Operations.

(7) Two of the six mine openings have not been sealed while the other four are sealed with dirt. There are no pipes currently installed at any of the entries.

(8) The mine dips to the northwest. Five of the six entries are on the down-dip side of the mine while the last entry is north of the hollow. Water from the six openings currently flows into an already existing diversion ditch. There is no evidence that water is regularly discharged from any of the openings.

The petitioner proposes the following alternative method:

(a) The six openings of the mine will be covered using coal refuse as the construction material. All six openings will be back-stowed to a length of 25 feet, as is required by 30 CFR 75.1711-2, using soil and rock or flowable fill material such as JennChem Tek Seals or an equivalent.

(b) The petitioner will build an underdrain system consisting of durable rock cobbles and a perforated pipe, wrapped in filter fabric. It will be installed at the base of the highwall along all six of the mine openings.

(c) Two drains will be installed, one for the five entries on the down-dip side of the mine and a second for the entry north of the hollow. Each of the mine

entry pipes for the five entries on the down-dip side of the mine will be connected and piped to the underdrain pipe.

(d) The mine entry pipes will be extended by a minimum of 40 feet in by the opening and located along the rib in order to minimize potential damage to the pipes during the backfill process. The underdrain and mine drain will be extended to release into a perimeter ditch located at the refuse facility.

(e) The mine openings and exposed coal seam will be covered with at least four feet of non-combustible, non-refuse material including soil and rock.

(f) In the event that water accumulates near sealed openings, an internal drainage system will be constructed to provide a controlled outlet to mitigate any potential combustion.

(g) The backfill zone isolates mine workings and the coal seam from the proposed coal refuse fill, minimizing the potential for fire to spread from the mine to the refuse fill.

(h) The coal refuse will be located in a maximum of two-foot lifts, reducing the possibility of spontaneous combustion.

(i) The proposed backfill plan limits the potential for combustion of the refuse or coal seam, which fulfills the intent of 30 CFR 77.214(a). The petitioner states that the proposed alternative provides an equivalent or greater method of protection than is required by 30 CFR 77.214(a).

*Docket Number:* M-2019-007-M.

*Petitioner:* Genesis Alkali, LLC, P.O. Box 872, 580 Westvaco Rd., Green River, WY 82935.

*Mine:* Genesis Alkali @WESTVACO, MSHA I.D. No. 48-00152, located in Sweetwater County, WY.

*Regulation Affected:* 30 CFR 57.22305 (Approved equipment (III mines)).

*Modification Request:* The petitioner requests a modification of the existing 30 CFR 57.22305 standard to permit an alternative, non-MSHA approved Powered Air Purifying Respirator (PAPR). The petitioner requests a modification of the existing standard to permit an alternative method that will provide the same measure of protection as the standard requires. The alternative PAPR is the 3M Versaflo TR-800 Intrinsically Safe Powered Air Purifying Respirator.

The petitioner states that:

(1) The petitioner's mine, Genesis Alkali @ Westvaco, is an underground, Class III trona mine. The petitioner has historically provided miners who wish to voluntarily wear respirators with 3M Airstream Headgear-Mounted PAPRs. These respirators are MSHA approved

but they will be discontinued in 2020, according to the manufacturer.

(2) The proposed modification seeks relief from the application of 30 CFR 57.22305, and requests the use of a non-MSHA approved, intrinsically safe, PAPR for the purpose of providing respiratory protection and fresh air flow for miners who are potentially exposed to nuisance dust. Such non-approved equipment would be used among miners working under normal mining conditions in or beyond the last open crosscut and where methane may enter the air current.

(3) The petitioner notes that the National Institute for Occupational Safety and Health essentially states that the TR-800 was tested to standards that should be considered equivalent to the MSHA ACRI2001 criteria.

The petitioner proposes the following:

Miners who wish to use PAPRs will use the 3M Versaflo TR-800 Intrinsically Safe Powered Air Purifying Respirator ("TR-800"). While it is not approved by MSHA, under 30 CFR parts 18 through 36, the TR-800 has been extensively tested and approved as intrinsically safe under the testing standards of Underwriters Laboratory (UL, which operates in the United States and Canada), the American National Standards Institute (ANSI), and the International Electrotechnical Commission (IEC). Thus, the petitioner believes that the proposed alternative method of using the TR-800 will at all times guarantee no less than the same measure of protection afforded by the MSHA standard.

**Sheila McConnell,**

*Director, Office of Standards, Regulations, and Variances.*

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**BILLING CODE 4520-43-P**

## DEPARTMENT OF LABOR

### Wage and Hour Division

#### Agency Information Collection Activities; Comment Request; Information Collections: Application of the Employee Polygraph Protection Act

**AGENCY:** Wage and Hour Division, Department of Labor.

**ACTION:** Notice; request for comments.

**SUMMARY:** The Department of Labor (DOL) is soliciting comments concerning a proposed extension to the information collection request (ICR) titled, "Application of the Employee Polygraph Protection Act." This comment request is part of continuing

Departmental efforts to reduce paperwork and respondent burden in accordance with the Paperwork Reduction Act of 1995 (PRA).

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. A copy of the proposed information request can be obtained by contacting the office listed below in the **FOR FURTHER INFORMATION CONTACT** section of this Notice.

**DATES:** Written comments must be submitted to the office listed in the **ADDRESSES** section below on or before January 21, 2020.

**ADDRESSES:** You may submit comments identified by Control Number 1235-0005, by either one of the following methods: *Email:* WHDPRAComments@dol.gov; *Mail, Hand Delivery, Courier:* Division of Regulations, Legislation, and Interpretation, Wage and Hour, U.S. Department of Labor, Room S-3502, 200 Constitution Avenue NW, Washington, DC 20210.

*Instructions:* Please submit one copy of your comments by only one method. All submissions received must include the agency name and Control Number identified above for this information collection. Because we continue to experience delays in receiving mail in the Washington, DC area, commenters are strongly encouraged to transmit their comments electronically via email or to submit them by mail early. Comments, including any personal information provided, become a matter of public record. They will also be summarized and/or included in the request for Office of Management and Budget (OMB) approval of the information collection request.

#### FOR FURTHER INFORMATION CONTACT:

Robert Waterman, Compliance Specialist, Division of Regulations, Legislation, and Interpretation, Wage and Hour Division, U.S. Department of Labor, Room S-3502, 200 Constitution Avenue NW, Washington, DC 20210; telephone: (202) 693-0406 (this is not a toll-free number). Copies of this notice may be obtained in alternative formats (Large Print, Braille, Audio Tape, or Disc), upon request, by calling (202) 693-0023 (not a toll-free number). TTY/TTD callers may dial toll-free (877) 889-5627 to obtain information or request materials in alternative formats.

#### SUPPLEMENTARY INFORMATION:

*I. Background:* The Wage and Hour Division (WHD) of the Department of Labor (DOL) administers the Employee