

In The Matter of
Carmeuse Lime & Stone
Chesney Underground
Mine ID No. 40-02113

PETITION FOR MODIFICATION

Docket No. M-2013-012-M

PROPOSED ORDER OF DISMISSAL

On December 3, 2013, a petition for modification was filed by Carmeuse Lime & Stone, seeking a modification of the application of 30 C.F.R. § 57.11052(d) at the Chesney Underground mine in Union County, Tennessee. The petitioner alleged that the alternative method in the petition would at all times guarantee no less than the same measure of protection afforded miners by the standard at 30 C.F.R. § 57.11052(d) concerning refuge areas.

Section 57.11052 (d) states that refuge areas shall be:

Provided with compressed air lines, waterlines, suitable hand tools, and stopping materials.

The petitioner proposes that the Chesney Underground mine be allowed to use compressed air and bottled water in a proposed refuge chamber. The petitioner suggests that this would give miners refuge in the event of a mine fire. The Chesney Underground mine has no established access to potable water or compressed air present.

The Mine Safety and Health Administration's (MSHA) investigators conducted an investigation relevant to the merits of the petition on January 9, 2014, and filed a report of their findings with the Administrator for Metal and Nonmetal Mine Safety and Health. After a careful review of the entire record, including the petition and MSHA's investigative report, this Proposed Decision and Order (PDO) is issued.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The MSHA's investigation report revealed the following facts about the mine. The Chesney Underground mine currently is not required to provide a method of refuge because all miners are able to reach the surface from their working place through at least two separate escapeways within one hour using the normal exit method. Currently all employees can reach the surface from their work place within 10 minutes, using the normal exit method. All miners travel to and from their work areas by rubber tired vehicle.

The operator has installed a prefabricated refuge chamber. The Chesney Underground mine does not route compressed air and water lines to the refuge chamber. The mine does not route air and water lines to the working areas for normal mining operations. The mine has a total of 11 levels and currently the refuge chamber is located in the

middle of the 61 level. The largest number of miners currently working underground is ten.

The company is requesting a modification of the application of 30 C.F.R. § 57.11052(d) at its mine to use the prefabricated refuge chamber as a self-contained unit (that is not provided with air and water lines from the surface) but is equipped with food, water, battery power, medical grade oxygen cylinders and an active carbon dioxide scrubber that will operate at full capacity for at least 48 hours. The company states it will keep the refuge chamber close to the mining unit, within the 30 minutes travel time.

We note that the compressed air lines and waterlines that are required by the standard ensure that there is an unlimited quantity of air and water for miners. If there is a mine emergency during which miners must remain in the refuge area for extended periods of time, compressed air lines and waterlines provide an unlimited supply of air and water. These compressed air lines and waterlines that are required by the standard must be functional. Using the estimates provided in the petition, the refuge area would only contain air and water sufficient for two days for the number of miners for which the refuge area is designed. The prefabricated refuge chamber described in the petition for modification is subject to 30 C.F.R. § 57.11052(d). The standard only applies to refuge areas required under 30 C.F.R. § 57.11050 (a) while a second opening to the surface is being developed or (b) when an employee cannot reach the surface from his working place within one hour when using the normal exit method.

ORDER

Wherefore, pursuant to the authority delegated by the Secretary of Labor to the Administrator for Metal and Nonmetal Mine Safety and Health and pursuant to Section 101(c) of the Federal Mine Safety and Health Act of 1977, 30 U.S.C. Section 811(c), it is ordered that a modification of the application of 30 C.F.R. § 57.11052 (d) at the Chesney Underground, as it pertains to utilizing bottled water and oxygen cylinders to replace compressed air lines and waterlines in refuge areas located within these mines, is hereby **DISMISSED**.

Any party to this action desiring a hearing shall file a request for hearing within 30 days after service of the PDO, in accordance with 30 C.F.R. § 44.14, with the Administrator for Metal and Nonmetal Mine Safety and Health, 1100 Wilson Boulevard, Arlington, Virginia 22209-3939. If a hearing is requested, the request shall contain a concise summary of position on the issues of fact or law desired to be raised by the party requesting the hearing, including specific objections to the PDO. A party other than the petitioner who has requested a hearing shall also comment upon all issues of fact or law presented in the petition. Any party to this action requesting a hearing may indicate a desired hearing site. If no request for a hearing is filed within 30 days after service thereof, this PDO will become final and shall be posted by the operator on the mine bulletin board at the mine.

/s/

Neal H. Merrifield
Administrator for Metal and Nonmetal
Mine Safety and Health