

In The Matter of
Unimin Specialty Minerals Inc.
Elco Mine
I.D. No. 11-01981

PETITION FOR MODIFICATION

Docket No. M-2007-009-M

Proposed Decision and Order

On September 7, 2007, Unimin Specialty Minerals Inc., filed a petition seeking a modification of 30 C.F.R. § 56.13020 to its Elco Mine, I.D. No. 11-01981, located in Alexander County, IL. The mine is an open pit surface mine which extracts silica sand.

The petition alleges that the alternative method outlined in the petition, will at all times guarantee no less than the same measure of protection afforded by the standard.

The standard at 30 C.F.R. § 56.13020, *Use of compressed air*, provides:

At no time shall compressed air be directed toward a person. When compressed air is used, all necessary precautions shall be taken to protect persons from injury.

The Petitioner's proposed alternative method consists of implementing a clothes cleaning process that uses regulated compressed air for cleaning miners' dust-laden clothing. Petitioner alleges that the alternative method provides a direct reduction of a miners' exposure to respirable crystalline dust, thus reducing their health risks while providing no less a degree of safety than that provided by the standard. The proposed alternative method has been jointly developed with and successfully tested by the National Institute for Occupational Safety and Health (NIOSH).

On November 6, 2007, MSHA investigators conducted an on-site investigation into the merits of the petition and filed a written report of their findings and recommendations 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 and recommendations, a Proposed Decision and Order granting the petition was issued on March 14, 2008. On April 3, 2008, MSHA was contacted by petitioner and asked to clarify two of the granted conditions. Upon review, both conditions were found to be erroneous. On April 8, 2008, a Proposed Decision and Order correcting one of those errors was issued. On later review, it was determined that the second error remained. This amended Proposed Decision and Order corrects that second error.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The proposed clothes cleaning process uses a regulated, compressed air nozzle manifold to blow dust from worker's clothing. This activity is performed in an enclosed booth which captures the dust and vents it directly to the atmosphere. Since the booth is under negative pressure, with air moving downward away from the worker's breathing zone, no dust escapes to contaminate the work environment or other workers. Workers entering the booth are required to wear full seal eye goggles, hearing protection and a half mask, fit-tested, N-100 respirator.

The alternative method proposed by the Petitioner, with the terms and conditions listed below, will at all times guarantee no less than the same measure of protection afforded the miners under 30 C.F.R. § 56.13020.

ORDER

Wherefore, pursuant to the authority delegated by the Secretary of Labor to the Administrator for Metal and Nonmetal, and pursuant to Section 101(c) of the Federal Mine Safety and Health Act of 1977, 30 U.S.C. §811(c), it is ordered that a modification of 30 C.F.R. § 56. 13020 to the Unimin Corporation, as it pertains to an alternative method of using a compressed air nozzle manifold to blow dust from a workers clothing at their Elco Mine is hereby:

GRANTED, conditioned upon compliance with the following:

1. Only miners trained in the operation of the clothes cleaning booth (booth) will be permitted to use the booth to clean their clothes. Those miners not trained to use the booth will be provided access to HEPA vacuum equipment for clothes cleaning activities.
2. The Petitioner will incorporate the NIOSH Clothes Cleaning Process Instruction Manual into their MSHA Part 46 Training Plan and train affected miners in the process.
3. Miners entering the booth shall examine valves and nozzles for damage or malfunction and will close the door fully before opening the air valve. Any defects shall be repaired prior to the booth being used.
4. Miners entering the booth will wear full seal goggles for eye protection, ear plugs or muffs for hearing protection, and half mask fit-tested respirators with N100 filters for respiratory protection. A sign will be conspicuously posted requiring the above personal protective equipment when the booth is entered.

5. Air flow through the booth will be sufficient to maintain negative pressure during use of the cleaning system in order to prevent contamination of the environment outside the booth. Airflow will be in a downward direction, thereby moving contaminants away from the miner's breathing zone.
6. Air pressure through the spray manifold will be limited to 30 pounds per square inch or less. A lock box with a single, plant manager controlled key, will be used to prevent regulator tampering.
7. The air spray manifold will consist of a 1½ inch, schedule 40, steel pipe that has a failure pressure of 1,300 pounds per square inch, capped at the base and actuated by an electrically controlled ball valve at the top.
8. The air spray manifold will contain 26 nozzles at 30 psig (pound(s) per square inch pound(s) per square inch gauge).
9. The uppermost spray of the spray manifold will be located not more than 56 inches from the floor.
10. Side deflectors will be used to eliminate the possibility of incidental contact with the air nozzles during of the clothes cleaning process.
11. The Petitioner shall conduct periodic maintenance checks of the booth in accordance with the recommendations contained in the "NIOSH Clothes Cleaning Process Instruction Manual."
12. The air receiver tank supplying air to the manifold system will be of sufficient volume to permit no less than 20 seconds of continuous cleaning time.
13. An appropriate hazard warning sign will be posted on the booth to state, at a minimum, "Compressed Air" and "Respirable Silica Dust".
14. Minimum performance criteria for the local exhaust ventilation system servicing the booth shall be maintained at all times. Provisions will be established by the Petitioner to remove the booth from service if volumetric airflow falls below 80% of original design capacity and/or booth negative pressure falls below 0.1" water gauge.

Any party to this action desiring a hearing must file a request for hearing within 30 days after service of the Proposed Decision and Order, in accordance with 30 C.F.R. Part 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 must 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 Proposed Decision and Order. 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 Proposed Decision and Order will become final and shall be posted by the operator on the mine bulletin board at the mine.

Felix A. Quintana
Administrator for
Metal and Nonmetal Mine Safety and Health