

No. 1 is powered by multiple drive motors located on the mine's surface facilities. Each drive motor is controlled by a variable frequency drive (VFD), coupled with encoders, that monitors the speed of the motor unit and can shut down the belt if a predetermined speed set point is exceeded.

(6) The original equipment manufacturer has by design, provided the necessary components (variable frequency drives, programmable logic computers and associated software, and switches/touchscreen controls) to provide for "mantrip-mode" operation. Additionally, the drive motor gear boxes are provided with a braking/blocking device that mechanically prevents rotation of the gears when the drive motors are deenergized.

The petitioner proposes to use the slope belt conveyor at Mine No. 1 as a mechanical escape facility conditioned on compliance with the following:

- The slope belt conveyor will be equipped with an automatic braking system which prevents the belt from reversing direction if power is lost.
- Positive acting stop control will be installed along the slope belt conveyor and such controls will be readily accessible and will be maintained so that the belt can be stopped or started at any location. Automatic controls will also deenergize the belt flight dumping onto the slope belt and will be so designed that the power cannot be reapplied to the belt flight dumping onto the slope belt while it is in use as an emergency escape facility.
- The slope belt conveyor will have a minimum vertical clearance of 18 inches from the nearest overhead projection when measured from the edge of the belt and there will be at least 36 inches of sided clearance where men board and leave the slope conveyor.
- When persons are being transported on the slope belt conveyor being used as an emergency escape facility, the belt speed will not exceed 300 feet per minute when the vertical clearance is less than 24 inches and will not exceed 350 feet per minute when the vertical clearance is 24 inches or more.
- Adequate illumination including colored lights or reflectors will be installed at all loading and unloading stations on the slope conveyor belt. Such colored lights will be located to be observable to all persons riding the conveyor belt.
- The slope conveyor belt will not be used to transport supplies and the slope conveyor will be clear of all

material, including coal, before men are transported.

- Telephone or other suitable communications will be provided at points where persons are loaded on or unloaded from the slope belt conveyor.
- Suitable crossing facilities will be provided wherever persons must cross the moving slope conveyor or any other moving belt conveyor belt to gain access to or leave the mechanical escape facility.
- The belt slope conveyor will have a minimum 48-inch wide clear travelway on at least one side and will have a minimum 24-inch clear travelway on the opposite side.
- Suitable belt crossing facilities will be provided wherever necessary to maintain a continuous route of travel alongside the slope belt conveyor from the slope bottom where the alternative escape exits the slope belt entry at the surface.
- The slope belt conveyor will be examined by a certified person at least once a week. This examination will include:
  - (a) Operating the slope belt conveyor as an emergency escape facility;
  - (b) Examination for hazards along the slope belt conveyor and examination of the mechanical and electrical condition of the slope conveyor system;
  - (c) Immediate reporting of hazards or mechanical deficiencies observed; and
  - (d) Confirmation that any reported hazards or defects are corrected before the slope belt is used as an emergency escape facility.
- The slope conveyor belt will also be subject to the preshift examination requirements of 30 CFR 75.360(b)(2) and, where one of those examinations include operation of the slope conveyor as a mechanical escape facility and examination for mechanical and electrical condition of the slope belt conveyor, the weekly examination requirements will be satisfied.
- The person(s) making the examinations will certify by initials, date, and the time the examinations were made. The certification will be at the loading and unloading stations of the slope conveyor belt. The petitioner asserts that the proposed alternative method will at all times provide the same degree of safety as that provided by the existing standard.

**Sheila McConnell,**

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

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**BILLING CODE 4520-43-P**

## DEPARTMENT OF LABOR

### Mine Safety and Health Administration

#### Petitions for Modification of Application of Existing Mandatory Safety Standards

**AGENCY:** Mine Safety and Health Administration, Labor.

**ACTION:** Notice.

**SUMMARY:** 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. 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 the MSHA's Office of Standards, Regulations, and Variances on or before January 11, 2016.

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

1. *Electronic Mail:* [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, Acting 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 copies of the petitions 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:** Barbara Barron, Office of Standards, Regulations, and Variances at 202-693-9447 (Voice), [barron.barbara@dol.gov](mailto:barron.barbara@dol.gov) (Email), or 202-693-9441 (Facsimile). [These are not toll-free numbers.]

#### SUPPLEMENTARY INFORMATION:

##### 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 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. That 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 and procedures for filing petitions for modification.

## II. Petitions for Modification

*Docket Number:* M–2015–006–M.

*Petitioner:* Marigold Mining Company, 950 17th Street, Suite 2600, Denver, Colorado 80202.

*Mine:* Marigold Mine, MSHA I.D. No. 26–02081, located in Humboldt County, Nevada.

*Regulation Affected:* 30 CFR 56.6309(b) (Fuel oil requirements for ANFO).

*Modification Request:* The petitioner requests a modification of the existing standard to permit the use of re-refined oil in lieu of conventional diesel when preparing ANFO for blasting. The petitioner states that:

(1) Only RDO–100 will be used, which is an engineered liquid hydrocarbon fuel that is refined off site from recycled petroleum products by a reputable commercial business with quality controls in place to assure that the product meets the specifications outlined in the Material Safety Data Sheet.

(2) Marigold mining company received lab results from American Testing Technologies, Inc., analyzing the RDO–100 Burner Fuel. The RDO–100 Burner Fuel oil exceeds the following Environmental Protection Agency (EPA) limits of 40 CFR 279.11:

- Arsenic—5 ppm maximum
- Benzene—25 ppm maximum
- Cadmium—2 ppm maximum
- Chromium—10 ppm maximum
- Lead—100 ppm maximum
- Total Halogens—1,000 ppm maximum
- Flash Point—100°–125° F minimum

In similar cases, and corresponding orders granting modification of the application of 30 CFR 56–6309(b), MSHA has determined that there is not a diminution of safety when using re-refined used oil that meets the EPA criterion of 40 CFR 279.11, and does not contain hazardous waste material listed in 40 CFR part 261 to prepare ANFO.

(3) Marigold Mining Company seeks modification of the existing standard

that recognizes the RDO–100 Burner Fuel is not a “waste oil” or “crankcase oil” prohibited by the referenced standard. RDO–100 is an engineered liquid hydrocarbon fuel manufactured offsite from 100 percent reclaimed petroleum products, and has a flash point greater than 200 degrees Fahrenheit. Marigold Mining seeks recognition from MSHA that it can utilize RDO–100 Burner Fuel to prepare ANFO.

(4) RDO–100 burner fuel is not a “waste oil” or “crankcase oil” prohibited by the referenced standard. Used oil is clearly acceptable to certain situations under EPA standard. Marigold Mining should be allowed to use re-refined and EPA compliant oil to prepare ammonium nitrate-fuel oil for the blasting process. 30 CFR 56.6309(b) states that “waste oil, including crankcase oil, shall not be used to prepare ammonium nitrate-fuel oil” However, the standard does not define the terms “waste oil and “crankcase oil”. Evaluating common industry definitions, it is clear that the RDO–100 burner fuel utilized by Marigold Mining does not fall into either of these categories.

The Merriam-Webster Dictionary defines a “crankcase” as “the part of an engine that contains the crankshaft, the housing of a crankshaft.” Thus, “crankcase oil” is the oil inside the crankcase that lubricates the crankshaft. The oil that Marigold Mining intends to utilize is recycled EPA compliant oil that does not fall under this definition. Used oil is clearly acceptable in certain situations under EPA standards. “Used oil means any oil that has been refined from crude oil, or any synthetic oil, that has been used and as a result of such use is contaminated by physical or chemical impurities,” 40 CFR 279.1. 40 CFR part 279 defines the acceptable and prohibited uses of “used oil”. However, “used oil burned for energy recovery, and any fuel produced from used oil by processing, blending, or other treatment is subject to regulation under [40 CFR part 279] unless it is shown not to exceed any of the allowable levels of the constituents and properties.

40 CFR 279.11 (emphasis added). Based on Marigold Mining analysis test results, it is evident that Marigold Mining re-refined used oil does not exceed any allowable levels, and thus is not subject to the prohibitions described in 40 CFR part 279. As such, Marigold Mining should be allowed to utilize used, recycled, EPA compliant oil to prepare ammonium nitrate-fuel oil.

(5) RDO–100 burner fuel (recycled oil) is almost chemically identical to Mobile 15–W40 motor oil (new oil). Even if

RDO–100 burner fuel is considered “waste oil” under 30 CFR 56.6309(b), a comparison of the lab results for RDO–100 burner fuel (recycled oil) and Mobile 15–W40 motor oil” (new oil) used to make ANFO reveals that there is not significant difference between the two. The new oil contains more total halogens than the recycled oil. RDO–100 is an engineered liquid hydrocarbon fuel refined offsite from recycled petroleum products by a reputable commercial business with quality controls in place to assure that the product meets the specifications outlined in the MSDS. Thus, creation of ANFO using RDO–100 versus Mobile15–W40 motor oil is similar to the creation of a Coke bottle using recycled plastic versus new plastic.

(6) Marigold Mining is in the process of establishing several precautionary measures that it intends to follow in an effort to dispel any safety concerns. The procedures below constitute a fully appropriate and safe method for transporting, storing, and utilizing recycled used oil to prepare ANFO without any diminution of safety.

- Marigold Mining will only be using re-refined used oil that has already been recycled and tested by a reputable commercial business.
- The recycled oil received by Marigold Mining for use to prepare ANFO will be stored in an oil tank that is dedicated for diesel and/or used oil blend storage.
- The ammonium nitrate to be combined with the re-refined used oil to create ANFO will be stored separate and apart from the re-refined used oil in a locked and secured compound.
- The recycled oil, after it is filtered and meets the EPA criteria of 40 CFR 279.11, shall have no other products added except for No. 2 diesel fuel.
- The re-refined used oil shall not be modified by heating, the addition of additives (excluding the No. 2 diesel fuel), or in any other way that would change the relevant properties of the oil.
- The ANFO will be transported and used in a closed system which prevents skin contact, inhalation of vapors and ingestion of the product. Personal protective equipment worn by employees who handle the ANFO mixture, as required by 30 CFR 56.15006, will be maintained to ensure the intended protection and will be properly disposed of after each use.
- The ANFO will be used only on Marigold Mine property and will not be sold or transferred to other mine properties.

- The re-refined used oil and ammonium nitrate will be taken to the blast site in separate containers and will be combined only as part of the actual process of loading the blast holes.
- The petitioner will maintain a daily “load” and “shot” report detailing all holes loaded and shots fired which contain this re-refined used oil/prill mixture.

(7) There have been no documented incidents at the Marigold Mine from use of RDO-100 burner fuel to prepare ANFO. Marigold Mining has successfully used RDO-100 burner fuel for over eight years without any problems, and has had several discussions with MSHA inspectors during that period regarding use of the product. Prior to Citation No. 8562938 being issued and subsequently vacated in 2011, no MSHA inspector has ever cited Marigold Mining for the use of RDO-100 burner fuel, nor has any MSHA inspector ever advised Marigold Mining not to use RDO-100 burner fuel. Marigold Mining’s use of RDO-100 burner fuel is a safe environmentally responsible practice that complies with the requirements of 30 CFR 6309.

The petitioner asserts that application of the existing standard will result in a diminution of safety to the miners and that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded by the existing standard.

**Sheila McConnell,**

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

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## NUCLEAR REGULATORY COMMISSION

[NRC-2015-0272]

### Assessment of Radioactive Discharges in Ground Water to the Unrestricted Area at Nuclear Power Plant Sites

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Draft regulatory guide; request for comment.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment draft regulatory guide (DG), DG-4025, “Assessment of Radioactive Discharges in Ground Water to the Unrestricted Area at Nuclear Power Plant Sites.” This DG proposes guidance for an approach that the NRC staff considers acceptable for use in assessing

abnormal, inadvertent radioactive releases that may result in discharges of contaminated ground water from the subsurface to the unrestricted area at commercial nuclear power plant sites.

**DATES:** Submit comments by February 9, 2016. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date. Although a time limit is given, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

**ADDRESSES:** You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specified subject):

- **Federal Rulemaking Web site:** Go to <http://www.regulations.gov> and search for Docket ID NRC-2015-0272. Address questions about NRC dockets to Carol Gallagher; telephone: 301-415-3463; email: [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov). For technical questions, contact the individual(s) listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- **Mail comments to:** Cindy Bladey, Office of Administration, Mail Stop: OWFN-12H08, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

For additional direction on accessing information and submitting comments, see “Obtaining Information and Submitting Comments” in the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:**

Thomas Nicholson, telephone: 301-415-2471, email: [Thomas.Nicholson@nrc.gov](mailto:Thomas.Nicholson@nrc.gov) and Edward O'Donnell, telephone: 301-415-3317, email: [Edward.ODonnell@nrc.gov](mailto:Edward.ODonnell@nrc.gov). Both are staff of the Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

**SUPPLEMENTARY INFORMATION:**

#### I. Obtaining Information and Submitting Comments

##### A. Obtaining Information

Please refer to Docket ID NRC-2015-0272 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document, by any of the following methods:

- **Federal Rulemaking Web site:** Go to <http://www.regulations.gov> and search for Docket ID NRC-2015-0272.

- **NRC's Agencywide Documents Access and Management System (ADAMS):** You may obtain publicly available documents online in the ADAMS Public Documents collection at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select “ADAMS Public Documents” and then select “Begin Web-based ADAMS Search.” For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by email to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov). The DG is electronically available in ADAMS under Accession No. ML15237A388.

- **NRC's PDR:** You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

##### B. Submitting Comments

Please include Docket ID NRC-2015-0272 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC posts all comment submissions at <http://www.regulations.gov> as well as entering the comment submissions into ADAMS.

The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

## II. Additional Information

The NRC is issuing for public comment a DG in the NRC's “Regulatory Guide” series. This series was developed to describe and make available to the public information regarding methods that are acceptable to the NRC staff for implementing specific parts of the NRC's regulations, techniques that the staff uses in evaluating specific issues or postulated events, and data that the staff needs in its review of applications for permits and licenses.

The DG, entitled, “Assessment of Radioactive Discharges in Ground Water to the Unrestricted Area at Nuclear Power Plant Sites” is a proposed new