

Oct 19, 2007  
In The Matter of  
Mosaic Potash Carlsbad, Inc.  
Mosaic Potash Carlsbad, Inc., Mine  
I.D. No. 29-00802

PETITION FOR MODIFICATION

Docket No. M-2006-006-M

Proposed Decision and Order

On July 17, 2006, a petition under 30 U.S.C. § 811 ( c) and 30 C.F.R. part 44 was filed by Mosaic Potash Carlsbad, Inc. (Mosaic) seeking a modification of the application of 30 C.F.R. § 57.15031 to its Mosaic Potash Carlsbad, Inc. Mine located in Carlsbad, Eddy County, New Mexico. The petitioner alleged that the alternative method outlined in the petition would at all times guarantee no less than the same measure of protection for miners as afforded by the standard.

Standard 30 C.F.R. § 57.15031 *Location of self-rescue devices*, provides:

- (a) Except as provided in paragraph (b) and (c) of this section, self-rescue devices meeting the requirements of standard 57.15030 shall be worn or carried by all persons underground.
- (b) Where the wearing or carrying of self-rescue devices meeting the requirements of standard 57.15030 is hazardous to a person, such self-rescue devices shall be located at a distance no greater than 25 feet from such person.
- (c) Where a person works on or around mobile equipment, self-rescue devices may be placed in a readily accessible location on such equipment.

Mosaic proposes to require that miners wear 10-minute self contained self rescue devices (SCSRs) on their belt in tandem with 1-hour SCSRs located within 500 feet or 5 minutes walking distance from any miner, whichever is less. Standard 30 C.F.R. § 57.15030 that a one hour self rescue device be made available to all underground personnel. It does not require that the 1-hour self rescue device be an SCSR. When wearing a self rescue device is hazardous, the devices are required by the standard to be located at no greater than 25 feet from the miner. Additionally, the standard allows that where a miner works on or around mobile equipment, self rescue devices may be placed in a readily accessible location on the equipment.

MSHA investigators conducted an investigation relevant to the merits of the petition 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 and recommendations this, Proposed Decision and Order is issued.

### Findings Of Fact And Conclusions OF Law

SCSRs provide more protection from a variety of toxic fumes than self rescue devices which only provide for protection from carbon monoxide exposure. Further, the combined duration of the two rescue devices exceeds that of the 1-hour self rescuer provided for by the standard. Finally, escape time from the mine in the event of an underground emergency is routinely less than one hour. The petitioner's alternative method outlined in the petition will at all times guarantee no less than the same measure of protection for miners as afforded by the standard.

### 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 §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 the application of 30 C.F.R. § 57.15031 to the Mosaic Mine, as it pertains to utilizing self contained self rescue devices in lieu of filter self rescuer devices is hereby:

**GRANTED**, conditioned upon compliance with the following requirements:

1. All underground miners shall be trained quarterly in the use, limitations, care, and inspection of the 10-minute and the 1- hour self-contained self-rescue (SCSR) devices. This training shall include:
  - (a) Hands-on training on all types of self-rescue devices used at the mine, which includes –
    - (i) Instruction and demonstration in the use, care, and maintenance of self-rescue devices; and
    - (ii) The complete donning of the SCSR by assuming a donning position, opening the device, activating the device, inserting the mouthpiece, and putting on the nose clip.
  - (b) Hands-on training in transferring from a 10-minute SCSR to a 1- hour SCSR.
2. Annually each miner shall participate in expectations training that includes donning SCSRs in smoke, simulated smoke, or an equivalent environment, and breathing through a realistic SCSR training unit that provides the sensation of SCSR airflow resistance and heat.

3. At the completion of training, the operator shall certify by signature and date that the training was conducted according to the conditions in this petition. This certification shall include the names of the miners participating in the training.

Upon request, the certifications shall be made available to the miner's representative or an Authorized Representative of the Secretary, on request. This certificate shall be kept at the mine for three years.

4. Ten-minute SCSRs shall be worn on miners' belts while underground. One hour SCSRs shall be stored within 500 feet or 5 minutes walking distance from any miner, whichever is less.
5. Revisions to the 30 C.F.R. Part 48 training plan regarding granted conditions in this order pertaining to new miner, experienced miner or person required to receive hazard training shall be submitted to the MSHA South Central District Manager for review and approval within 30 days of the date of this order. Training plan implementation may begin once approval of the plan is granted by the South Central District Manager.
6. All stored 1-hour SCSRs in the mine shall be inspected for defects in accordance with the manufacturers instructions on a weekly basis, and the results recorded for each device. Records of these inspections will be made available to the miner's representative and an Authorized Representative of the Secretary, on request. Records of these inspections shall be maintained for three years.
7. The temperature range for stored SCSRs shall be 10° Fahrenheit to 140 ° Fahrenheit.
8. The 10-minute SCSR shall be inspected for defects every shift by miners wearing such device.

Any party to this action desiring a hearing shall 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 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 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.

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