

changes and refer to the specific findings of fact, conclusions of law, and terms of the initial decision to be reviewed or appealed. The Assistant Secretary shall fix a time for filing any objections to the suggested changes and supporting reasons.

(2) The Assistant Secretary shall promptly notify the Administrative Law Judge of a discretionary review or an appeal. The entire record of the proceedings shall be transmitted to the Assistant Secretary for review.

(3) The Assistant Secretary shall make the final decision based upon consideration of the record of the proceedings. The final decision may affirm, modify, or set aside in whole or in part, the findings and conclusions contained in the initial decision. A statement of reasons for the action taken shall be included in the final decision. The final decision shall be served upon the mine operator and representative of the miners.

(g) Unless a decision by the Administrator for Metal and Nonmetal Mine Safety and Health, or the initial decision of the Administrative Law Judge, is appealed within 30 days, it becomes final, and is not subject to judicial review for the purposes of 5 U.S.C. 704. Only a decision by the Assistant Secretary shall be considered final Agency action for purposes of judicial review. Any such appeal must be filed in the appropriate circuit of the United States Court of Appeal.

(h) While a final decision of category placement is pending the following procedures shall apply:

(1) Where a mine has been classified as gassy prior to the effective date of these standards, existing gassy mines standards 30 CFR 57.21001 through 57.21101 (1986 Edition) shall continue to be applicable until placement is final.

(2) Where a mine has not been classified as gassy prior to the effective date of these standards and it is placed in Categories I through V, the mine shall comply with Category VI standards (§§ 57.22231, 57.22232, 57.22236, and 57.22238) until placement is final.

(3) Where a mine has been classified in Categories I through V after the effective date of these standards and category reassignment is being considered, the mine shall comply with the

standards applicable to the category to which presently assigned until category placement is final.

[52 FR 24941, July 1, 1987; 52 FR 27903, July 24, 1987, as amended at 67 FR 38385, June 4, 2002]

FIRE PREVENTION AND CONTROL

NOTE: The Category or Subcategory applicability of each standard appears in the parentheses of each standard's title line].

§ 57.22101 Smoking (I-A, II-A, III, and V-A mines).

Persons shall not smoke or carry smoking materials, matches, or lighters underground. The operator shall institute a reasonable program to assure that persons entering the mine do not carry such items.

§ 57.22102 Smoking (I-C mines).

(a) Persons shall not smoke or carry smoking materials, matches, or lighters underground or within 50 feet of a mine opening. The operator shall institute a reasonable program to assure that persons entering the mine do not carry such items.

(b) Smoking is prohibited in surface milling facilities except in designated, dust-free smoking areas.

§ 57.22103 Open flames (I-A, II-A, III, and V-A mines).

Open flames shall not be permitted underground except for welding, cutting, and other maintenance operations, and for igniting underground retorts in a Subcategory I-A mine. When using open flames in other than fresh air, or in places where methane may enter the air current, tests for methane shall be conducted by a competent person before work is started and every 10 minutes until the job is completed. Continuous methane monitors with audible alarms may be used after the initial test has been conducted as an alternative to the ten-minute interval testing requirement. Open flames shall not be used in atmospheres containing 0.5 percent or more methane.

§ 57.22104 Open flames (I-C mines).

(a) Open flames, including cutting and welding, shall not be used underground.

§ 57.22105

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(b) Welding and cutting shall not be done within 50 feet of a mine opening unless all persons are out of the mine and the mine opening is covered. The cover shall be a substantial material, such as metal or wood, topped with a layer of wetted material to prevent sparks and flames from entering the mine opening.

§ 57.22105 Smoking and open flames (IV mines).

Smoking or open flames shall not be permitted in a face or raise, or during release of gas from a borehole until tests have been conducted in accordance with § 57.22226 and the methane level has been determined to be below 0.5 percent.

§ 57.22106 Dust containing volatile matter (I-C mines).

Dust containing volatile matter shall not be allowed to accumulate on the surfaces of enclosures, facilities, or equipment used in surface milling in amounts that, if suspended in air, would become an explosive mixture. An explosive mixture of dust containing volatile matter is 0.02 ounce or more per cubic foot of air.

VENTILATION

§ 57.22201 Mechanical ventilation (I-A, I-B, I-C, II-A, II-B, III, IV, V-A, and V-B mines).

All mines shall be ventilated mechanically.

§ 57.22202 Main fans (I-A, I-B, I-C, II-A, III, V-A, and V-B mines).

(a) Main fans shall be—

(1) Installed on the surface in noncombustible housings provided with noncombustible air ducts;

(2) Except in Subcategory I-A mines, provided with an automatic signal device to give an alarm when the fan stops. The signal device shall be located so that it can be seen or heard by a person designated by the mine operator.

(b) Fan installations shall be—

(1) Offset so that the fan and its associated components are not in direct line with possible explosive forces;

(2) Equipped with explosion-doors, a weak-wall, or other equivalent devices located to relieve the pressure that

would be created by an explosion underground. The area of the doors or weak-wall shall be at least equivalent to the average cross-sectional area of the airway.

(c) (1) All main fan-related electrical equipment and cables located within or exposed to the forward or reverse airstream shall be approved by MSHA under the applicable requirements of 30 CFR part 18;

(2) Drive belts and nonmetallic fan blades shall be constructed of static-conducting material; and

(3) Aluminum alloy fan blades shall not contain more than 0.5 percent magnesium. [Paragraph (c)(3) of this section does not apply to Subcategory I-C mines].

(d) When an internal combustion engine is used to power a main fan or as standby power, the engine shall be—

(1) Installed in a noncombustible housing;

(2) Protected from a possible fuel supply fire or explosion; and

(3) Located out of direct line with the forward and reverse airstream provided by the fan. Engine exhaust gases shall be vented to the atmosphere so that exhaust cannot contaminate mine intake air.

(e) For Subcategory I-A mines only: Main exhaust fans shall be equipped with methane monitors to give an alarm when methane in the return air reaches 0.5 percent. The alarm shall be located so that it can be seen or heard by a person designated by the mine operator.

[52 FR, 24941, July 1, 1987, as amended at 52 FR 41397, Oct. 27, 1987]

§ 57.22203 Main fan operation (I-C mines).

Main fans shall be operated continuously while ore production is in progress.

§ 57.22204 Main fan operation and inspection (I-A, II-A, III, and V-A mines).

Main fans shall be—

(a) Provided with a pressure-recording system; and

(b) Inspected daily while operating if persons are underground. Certification