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 [Insert date 30 days from the date of publication in the FEDERAL REGISTER].

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. 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 (E-mail), 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-2016-002-C.

Petitioner: Clinton M Wynn Mining, 419 Shingara Lane, Sunbury, Pennsylvania 17801.

Mine: Bottom Rock Slope, MSHA I.D. No. 36-10110, located in Northumberland County, Pennsylvania.

Regulation Affected: 30 CFR 49.2(b) (Availability of mine rescue teams).

Modification Request: The petitioner requests a modification of the existing standard to permit the reduction of two mine rescue teams with five members and one alternate each to two mine rescue teams of three members with one alternate for either team. The petitioner states that:

(1) The underground mine is a small mine and there is hardly enough physical room to accommodate more than three or four miners in the working places. An attempt to utilize five or more rescue team members in the mine's confined working places would result in a diminution of safety to both the miners at the mine and members of the rescue team.

(2) Records of Mine Emergency responses over the last 20 years indicate that rescue and recovery operations conducted by Anthracite Underground Rescue, Inc. (AUGR) have never utilized more than one team. In addition, when one rescue team was utilized there were no more than three members traveling to a working place simultaneously.

(3) The electric power does not reach beyond the bottom of the slope. Therefore, all coal haulage is done by hand trammed cars or battery electric motor and car at very

slow rates of speed. These facts considerably reduce the risk of a disaster and the need for as many mine rescue team members as required by the regulations.

(4) The employment in the underground anthracite mines has decreased substantially and the ratio of mine rescue teams to underground miners has correspondingly been reduced. The loss of the underground work force dramatically reduces the pool of qualified people available to fill mine rescue positions.

(5) Pennsylvania Deep Mine Safety presently has four deep mine inspectors that have deep mine rescue training and are pledged to assist if required in an emergency. In addition, the surrounding small mines have always provided assistance during mine emergencies.

(6) As a result of poor market conditions and a significant number of underground mines now conducting final pillar recovery, the downward trends are expected to continue.

The petitioner asserts that the proposed alternative method will provide no less than the same measure of protection afforded the miners under the existing standard.

Docket Number: M-2016-003-C.

Petitioner: Clinton M Wynn Mining, 419 Shingara Lane, Sunbury, Pennsylvania 17801.

Mine: Bottom Rock Slope, MSHA I.D. No. 36-10110, located in Northumberland County, Pennsylvania.

Regulation Affected: 30 CFR 75.335 (Seal strength, design application, and installation).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of seal construction employing wooden material of moderate size and weight due to the difficulty in accessing previously driven headings

and breasts containing the inaccessible abandoned workings through the use of homemade ladders. The petitioner requests that a design criteria in the 10 psi range be accepted due to the non-explosibility of anthracite coal dust and minimal potential for either an accumulation of methane in previously mined pitching veins or an ignition source in the gob area. The petitioner states that seals installed in pairs permit the water trap to be installed only in the gangway seal (lowest elevation) and sampling tube in the monkey (higher elevation) seal. The petitioner also states that:

(1) The required transportation of solid concrete blocks or equivalent materials manually on ladders on pitching anthracite veins will expose miners to greater hazard(s) of falling, being struck by falling materials or resulting strains or sprains due to the weight of the materials.

(2) No evidence of ignition in accessible abandoned anthracite workings has been found to date.

(3) In veins pitching greater than 45 degrees the weight of the seal is transferred to the low side rib (coal).

(4) Irregularly shaped anthracite openings would require substantial cutting of rectangular blocks to insure proper tie-in to hitches in the top rock, bottom rock and low side coal rib.

(5) Concrete block and mortar construction for openings parallel to the pitching vein would be almost impossible to construct and subject to failure merely by its own weight.

(6) Isolation of inaccessible abandoned workings from an active section will permit natural venting of any potential methane build-up through surface breeches, and the mine has not experienced measurable liberations of methane to date.

The petitioner asserts that the proposed alternative method will provide no less than the same measure of protection afforded the miners under the existing standard.

Docket Number: M-2016-004-C.

Petitioner: Clinton M Wynn Mining, 419 Shingara Lane, Sunbury, Pennsylvania 17801.

Mine: Bottom Rock Slope, MSHA I.D. No. 36-10110, located in Northumberland County, Pennsylvania.

Regulation Affected: 30 CFR 75.360 (Preshift examination at fixed intervals).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of examination and evaluation, including a visual examination of each seal, for physical damage from the slope gunboat during the pre-shift examination to occur after an air quantity reading is taken just inby the intake portal. An additional air reading and gas test for methane and oxygen deficiency will then be taken at the intake air split location(s) just off the slope in the gangway portion of the working section. The examiner will place the date, time, and their initials at the locations where air readings and gas tests are taken and the results will be properly recorded prior to anyone entering the mine.

The slope will be traveled and physically examined for its entire length on a monthly basis with dates, times and initials placed at sufficient locations throughout, and results of the examination recorded on the surface. Any hazards found will be corrected prior to personnel transportation in the slope. The petitioner states that:

(1) The intake haulage slope on moderate to steep pitch of 66 degrees is equipped with a ladder as part of its escapeway requirement. If an examination had to be conducted, platforms across the ladder at multiple locations would require miners to climb around each platform obstruction, significantly increasing a fall hazard down the slope.

(2) If examinations were conducted and platforms not provided, a significant injury or fall potential exists each time a miner gets in and out of the gunboat.

(3) Accurate air readings cannot be obtained with the gunboat blocking a major portion of the intake slope. If platforms were installed across the intake almost total restriction of the mine's only intake would occur.

(4) Since the intake haulage slope is the mine's only intake, oxygen deficiency is highly unlikely.

(5) Due to wet conditions in the mine, dates, times, and initials frequently disappear in a matter of hours.

(6) Anthracite coal historically liberates methane only during active mining thereby eliminating the likelihood of methane leaking from inaccessible abandoned areas into the intake slope. Any such leakage would be detected at the proposed sampling location at each intake air split on the gangway.

(7) The return slope airway is located immediately adjacent to the intake slope and air leakage would occur toward the return.

(8) While air losses from the intake to the return slopes are anticipated, a significant change in readings from those of the previous day to week would warrant additional air readings and gas test at various locations in the slope. Significant changes

in readings, however, occur on a seasonal basis as a result of natural ventilation changes and should not be use as a basis for evaluating the efficiency of the mine's ventilation system.

(9) Only increases in air quantity readings obtained just inby the slope portal when measured in the slope are indicative of air leakage through seals in the wrong direction.

(10) Examination of the intake haulage slope on a monthly basis will ensure the safety of miners traveling the intake escapeway and significantly minimize the fall hazard potential of miners conducting examinations.

The petitioner asserts that the proposed alternative method will provide no less than the same measure of protection afforded the miners under the existing standard.

Docket Number: M-2016-005-C.

Petitioner: Clinton M Wynn Mining, 419 Shingara Lane, Sunbury, Pennsylvania 17801.

Mine: Bottom Rock Slope, MSHA I.D. No. 36-10110, located in Northumberland County, Pennsylvania.

Regulation Affected: 30 CFR 75.1200(d) & (i) (Mine map).

Modification Request: The petitioner requests a modification of the existing standard to permit the use of cross-sections in lieu of contour lines through the intake slope, at locations of rock tunnel connections between veins, and at 1,000 feet intervals of advance from the intake slope and to limit the required mapping of miner workings above and below to those present within 100 feet of the vein(s) being mined unless veins are interconnected to other veins beyond the 100 feet limit, through rock tunnels. The petitioner states that:

(1) Due to the steep pitch encountered in mining anthracite coal veins, contours provide no useful information and their presence would make portions of the map illegible.

(2) Use of cross-sections in lieu of contour lines has been practiced since the late 1800's and provides critical information relative to the spacing between vein and proximity to other mine workings which fluctuate considerably.

(3) The vast majority of current underground anthracite mining involves either second mining of remnant pillars from previous mining/mine operators or the mining of veins of lower quality in proximity to inaccessible and frequently flooded abandoned mine workings which may or may not be mapped.

(4) All mapping for mines above and below is researched by the petitioner's contract engineer for the presence of interconnecting rock tunnels between veins in relation to the mine and a hazard analysis is done when mapping indicates the presence of known or potentially flooded workings.

(5) When no rock tunnel connections are found, mine workings found to exist beyond 100 feet from the mine are recognized as presenting no hazard to the mine due to the pitch of the vein rock separation between.

(6) The mine workings above and below are usually inactive and abandoned and not usually subject to changes during the life of the mine.

(7) Where evidence indicates prior mining was conducted on a vein above or below and research exhausts the availability of mine mapping, the vein will be considered to be mined and flooded and appropriate precautions taken through §75.388, where possible.

(8) Where potential hazards exist and in mine drilling capabilities limit penetration, surface boreholes may be used to intercept the workings and the results analyzed prior to the beginning of mining in the affected area.

The petitioner asserts that the proposed alternative method will provide no less than the same measure of protection afforded the miners under the existing standard.

Docket Number: M-2016-006-C.

Petitioner: Clinton M Wynn Mining, 419 Shingara Lane, Sunbury, Pennsylvania 17801.

Mine: Bottom Rock Slope, MSHA I.D. No. 36-10110, located in Northumberland County, Pennsylvania.

Regulation Affected: 30 CFR 75.1202 and 75.1202-1(a) (Temporary notations, revisions and requirements).

Modification Request: The petitioner requests a modification of the existing standard to permit the required interval of survey to be established on an annual basis from the initial survey in lieu of every 6 months as required. The petitioner proposes to continue to update the mine map by hand notations on a daily basis and conduct subsequent surveys prior to commencing retreat mining, and whenever either a drilling program is required by §75.388 or plan for mining into inaccessible areas is required by §75.389. The petitioner states that:

(1) The low production and slow rate of advance in anthracite mining make surveying on 6-month intervals impractical. In most cases annual development is frequently limited to less than 500 feet of gangway advance with associated up-pitch development.

(2) The vast majority of small anthracite mines use non-mechanized, hand-loading mining methods.

(3) Development above the active gangway is designed to mine into the level above at designated intervals thereby maintaining sufficient control between both surveyed gangways.

(4) The available engineering/surveyor resources are limited in the anthracite coal fields. Surveying on an annual basis is difficult to achieve with four individual contractors currently available.

The petitioner asserts that the proposed alternative method will provide no less than the same measure of protection afforded the miners under the existing standard.

Docket Number: M-2016-007-C.

Petitioner: Clinton M Wynn Mining, 419 Shingara Lane, Sunbury, Pennsylvania 17801.

Mine: Bottom Rock Slope, MSHA I.D. No. 36-10110, located in Northumberland County, Pennsylvania.

Regulation Affected: 30 CFR 75.1400 (Hoisting equipment; general).

Modification Request: The petitioner requests a modification of the existing standard to permit the use of a gunboat to transport persons without safety catches or other no less effective devices because, to date, no such safety catch or device is available for steeply pitching and undulating slopes with numerous curves and knuckles present in the main haulage slopes of anthracite mines. These mines range in length from 30 to 4200 feet and vary in pitch from 12 degrees and 75 degrees. The petitioner states that:

(1) A functional safety catch has not yet been developed; consequently, the makeshift devices, if installed, would be activated on knuckles and curves when no

emergency exists causing a tumbling effect on the conveyance that would increase rather than decrease the hazard to miners.

(2) As an alternative, the petitioner proposes to operate the man cage or steel gunboat with secondary safety connections securely fastened around the gunboat and to the hoisting rope above the main connecting device and use hoisting ropes having a factor of safety in excess of the 4 to 8 to 1 as suggested in the American Standards Specifications for the Use of Wire Rope for Mines.

The petitioner asserts that the proposed alternative method will provide no less than the same measure or protection afforded the miners under the existing standard.

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Sheila McConnell
Acting Director,
Office of Standards, Regulations, and Variances

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