

June 13, 2006

In the matter of:

Petition for Modification
Docket No. M-2005-085-C

R S & W Coal Company
R S & W Drift Mine
I.D. No. 36-01818

I.D. No. 36-07059

Orchard Coal Company
Orchard Slope Mine
I.D. No. 36-08346

Six M Coal Company
No. 1 Slope Mine
I.D. No. 36-09138

S & M Coal Company
Buck Mountain Slope Mine
I.D. No. 36-02022

B & B Coal Company
Rock Ridge No. 1 Slope Mine
I.D. No. 36-07741

R & R Coal Company
R & R Coal Company Mine
I.D. No. 36-08498

Snyder Coal Company
Rock Slope No. 1 Mine
I.D. No. 36-09256

R & D Coal Company, Inc.
R & D Coal Company, Inc. Mine
I.D. No. 36-02053

UAE Coalcorp Associates
Harmony Mine
I.D. No. 36-07838

F K Z Coal Company
No. 1 Slope
I.D. No. 36-08637

Little Buck Coal Company
No. 2 Slope Mine
I.D. No. 36-08299

Snyder Coal Company
N & L Slope Mine
I.D. No. 36-02203

Bear Gap Coal Company
Bear Gap No. 6 Slope
I.D. No. 36-09296

Joliett Coal Company
No. 3 Vein Slope
I.D. No. 36-08702

D & D Anthracite Coal Company
Primrose Slope
I.D. No. 36-08341

Tito Coal Company
Whites Vein Slope Mine
I.D. No. 36-06815

Alfred Brown Coal Company
7 Ft. Slope Mine
I.D. No. 36-08893

Chestnut Coal Company
No. 10 Slope Mine

PROPOSED DECISION AND ORDER

On December 27, 2005, a petition was filed seeking a modification of the application of 30 CFR 49.6(a)(1)&(5) to the eighteen (18) active underground anthracite mines serviced by Anthracite Underground Rescue, Inc., which operates the mine rescue station that provides coverage to the mines located in Dauphin, Northumberland, and Schuylkill Counties, Pennsylvania. The Petitioner alleges that the alternative method proposed in the petition will at all times guarantee no less than the same measure of protection afforded by the standard.

The requested modification is to allow the number of self-contained breathing apparatuses, permissible cap lamps, and battery charging rack space to be reduced from twelve units of each to eight units of each. The reduced amount of equipment is consistent with the reduced size of the anthracite mine rescue teams addressed by granted modifications of 30 CFR 49.2(b). Such modifications allow three members and an alternate on each team rather than five members and an alternate. The smaller teams reflect the unique conditions of steeply pitching anthracite coal seams.

While the petition was being investigated, the Bear Gap Coal Company reported discontinued work at its Bear Gap No. 6 Slope (I.D. No. 36-09296) due to a faulted coal vein; the mine was sealed and permanently abandoned. Consequently, the requested modification is no longer needed and the petition investigation determined the petition for modification for that mine should be dismissed.

MSHA personnel conducted an investigation of the petition and filed a report of their findings with the Administrator for Coal Mine Safety and Health. After a careful review of the entire record, including the petition and MSHA's investigative report, this Proposed Decision and Order is issued.

Finding of Fact and Conclusion of Law

The requested modification of 30 CFR 49.6(a)(1)&(5) to the 18 subject mines will at all times provide a safe work environment to the miners at the active underground anthracite mines listed

above, with the exception of the Bear Gap Coal Company, Bear Gap No. 6 Slope Mine, (I.D. No. 36-09296), now abandoned and sealed.

MSHA's investigation found that reducing the quantity of equipment required to be purchased and maintained at the anthracite mine rescue station to a quantity consistent with the requirements of granted modifications currently in effect, which allow anthracite mines to be covered by two mine rescue teams of three members each and an alternate, will provide the same measure of protection to the miners.

On the basis of the petition and the findings of MSHA's investigation, the seventeen active underground anthracite mines listed above are granted a modification of the application of 30 CFR 49.6(a)(1)&(5). The petition as it applies to the abandoned and sealed Bear Gap Coal Company's Bear Gap No. 6 Slope, (I.D. No. 36-09296) is dismissed.

ORDER

Wherefore, pursuant to the authority delegated by the Secretary of Labor to the Administrator for Coal Mine Safety and Health, and pursuant to Section 101(c) of the Federal Mine Safety and Health Act of 1977, 30 U.S.C., Sec. 811(c), it is ordered that Anthracite Underground Rescue, Inc.'s Petition, submitted on behalf of the 17 active underground anthracite mines listed above, for modification of the application of 30 CFR 49.6(a)(1)&(5) is hereby:

GRANTED, upon compliance with the following terms and conditions:

1. Each mine rescue station shall be provided with at least the following equipment:
 - a. Eight self-contained oxygen breathing apparatus instead of twelve, each with a minimum of 2 hours capacity (approved by MSHA and NIOSH under 42 CFR 84, subpart H) and any necessary equipment for testing such breathing apparatus;
 - b. Eight permissible cap lamps instead of twelve and a charging rack.

2. All other requirements shall remain in effect.

Any party to this action desiring a hearing on this matter must file in accordance with 30 CFR 44.14, within 30 days. The request for hearing must be filed with the Administrator for Coal 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. A party other than Petitioner who has requested a hearing shall also comment upon all issues of fact or law presented in the petition, and 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, the Decision and Order will become final and must be posted by the operator on the mine bulletin board at the mine.

John F. Langton
Deputy Administrator for
Coal Mine Safety and Health

Attachment

Attachment A - Addresses of Record

Mr. Randy Rothermel
R S & W Coal Company
207 Creek Road
Klingerstown, PA 17941

Mr. Dave Himmelberger
Orchard Coal Company
214 Vaux Avenue
Tremont, PA 17981

Mr. Darryl Koperna
S & M Coal Company
1744 E. Grand Avenue
Tower City, PA 17980

Mr. Gary Lucas
R & R Coal Company
538 West Center Street
Donaldson, PA 17981

Mr. Dave Himmelberger
R & D Coal Company, Inc.
214 Vaux Avenue
Tremont, PA 17981

Mr. Tom Klinger
F K Z Coal Company
PO Box 62
Locust Gap, PA 17840

Mr. Dennis Snyder, Jr.
Snyder Coal Company
66 Snyder Lane
Hegins, PA 17938

Mr. Bill Reiner,
Joliett Coal Company
837 Grand Avenue
Tower City, PA 17980

Mr. Alfred Brown
Alfred Brown Coal Company
71 Hill Road
Hegins, PA 17938

Mr. Joe Shingara
Chestnut Coal Company
RD 3, Box 142
Sunbury, PA 18702

Mr. Ron Roseman
Six M Coal Company
482 High Road
Ashland, PA 17921

Mr. Ricky Bender
B & B Coal Company
225 East Main Street
Tremont, PA 17981

Mr. Ed Smock
UAE Coalcorp Associates
PO Box 306
Mt. Carmel, PA 17851

Mr. Larry Bender
Little Buck Coal Company
57 Lincoln Road
Pine Grove, PA 17963

Mr. Kyle Kerstetter
Bear Gap Coal Company
PO Box 64
Spring Glen, PA 17978

Mr. David Lucas
D & D Anthracite Coal Company
409 West Center Street
Donaldson, PA 17981

Mr. Greg Showers
Tito Coal Company
RD 1 Box 67A2
Williamstown, PA 17098