

August 18, 2006

In the matter of:
Six M Coal Company
No. 1 Slope Mine
I.D. No. 36-09138

Petition for Modification

Docket No. M-2006-010-C

PROPOSED DECISION AND ORDER

On March 28, 2006, a petition was filed seeking a modification of the application of 30 CFR 49.2(b) to Petitioner's No. 1 Slope Mine, located in Dauphin County, Pennsylvania. Petitioner alleges that application of this standard will result in a diminution of safety to the miners and 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 petitioned standard, 30 CFR 49.2(b), requires the availability of two mine rescue teams, each consisting of five members plus one alternate. The petitioner indicated that no more than one team has been needed during rescue and recovery activities in the anthracite area during the past 20 years and that no more than 3 rescue team members have entered a working place simultaneously. The petitioner proposes to provide two mine rescue teams, each consisting of three members. One alternate would provide coverage for both teams. Under the petition, seven mine rescue team members would be provided.

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

Mine rescue teams, as required under the petitioned standard, reflect the traditional and historic requirements of bituminous coal mines. Bituminous coal mines are characterized by being highly mechanized operations in coal seams that are horizontal or slightly dipping. Normally, extraction of coal occurs at

multiple faces. Typical opening widths in bituminous mines are 20 feet. Many bituminous mines exhibit vast areas of development, which can extend for miles underground. Bituminous mines often employ hundreds of miners and large bituminous mines can produce several million tons a year. Bituminous mines are highly electrified and equipment used for personnel conveyance can carry numerous persons. Rock dusting is required because of the combustibility of bituminous coal, caused by its inherent volatile content.

In contrast, anthracite mines are not highly mechanized. Production and maintenance work is done largely by hand, using simple hand tools and equipment. Typically, extraction occurs in a single face of an anthracite mine. Anthracite seams dip steeply and are often near vertical. Openings are narrow and constricted. Access between levels is by means of hardwood ladders through small, steeply pitched openings. Anthracite mines are typically developed only short distances underground, rarely more than several thousand feet. Anthracite mines may have no underground electric power or may have power only at the bottom of the hoist slope. The hoist bucket, used to transport personnel, typically can accommodate no more than three persons. Rock dusting is not required because of the extremely low combustibility of anthracite coal, caused by its low volatile content.

In 1999, one large underground bituminous mine employing 371 miners produced 9.8 million tons of coal. In contrast, all or 32 underground anthracite mines produced a total of 376 thousand tons of coal with a total employment of 144 miners that same year. Excluding the single relatively large anthracite mine, which employed 33 miners, the average underground anthracite mine employed 4 miners and produced approximately six thousand (6,000) tons during 1999. In the period of 2001 to the present, the number of active underground anthracite mines has declined from 25 to 13.

The No. 1 Slope Mine operates in a vein that is 7 feet thick and pitches between 65 and 75 degrees. The gangway headings are developed 10 feet wide and monkey heading are developed 10 feet wide. The method of mine development is the gangway, chute, and breast method. The mine is currently developing the Number 7 Vein and employs two underground miners and one surface miner. Electric power does not reach beyond the mine drift entry. The mine is currently in its initial developmental stage. The

walking time from the furthest point of gangway and chute development to the surface is three minutes.

The investigation confirmed that in the past 20 years no more than one mine rescue team has been needed in the anthracite region for rescue and recovery activities. Further, no more than three rescue team members have entered a working place at the same time during such activities. Considering this confirmation and the narrow width and constricted openings, the limited capacity of hoist conveyances, the pitched seam, the short travel distance from the drift opening to the working face, and the low combustibility of anthracite coal, Petitioner's alternative method of two mine rescue teams with three members each is as safe as maintaining two teams of five members. As such, it achieves the result of the standard to ensure the availability of mine rescue capability for purposes of emergency rescue and recovery. Based on this and the other physical and operational conditions discussed above, permitting this anthracite mine to provide two mine rescue teams of three members each with one alternate member serving both teams would guarantee the same measure of mine rescue protection to the anthracite miners at the mine as is provided by 30 CFR 49.2(b).

On the basis of the petition and the findings of MSHA's investigation, Six M Coal Company is granted a modification of the application of 30 CFR 49.2(b) to its No. 1 Slope Mine.

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 Six M Coal Company's Petition for Modification of the application of 30 CFR 49.2(b) in the No. 1 Slope Mine is hereby:

GRANTED, conditioned on compliance with the following terms and conditions:

1. Each of the two mine rescue teams shall include three members with one alternate who serves both teams.
2. All mine rescue team members and the alternate shall be fully qualified, trained, and equipped for

providing emergency mine rescue service in anthracite mines.

3. A copy of the mine notification plan required in accordance with 30 CFR 49.9(b) shall include the names and phone numbers of the four Pennsylvania Deep Mine Inspectors who are trained in mine rescue and qualified to conduct mine rescue operations.

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
Acting Administrator for
Coal Mine Safety and Health