

In the matter of
Little Buck Coal Company
No. 2 Slope
I.D. No. 36-08299

Petition for Modification

Docket No. M-2003-098-C

PROPOSED DECISION AND ORDER

On January 8, 2004, a petition was filed seeking a modification of the application of 30 CFR 49.2(b) to Petitioner's No. 2 Slope Mine, located in Joliett, Schuylkill County, Pennsylvania. The 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 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 also be provided to 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 and recommendations 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 and recommendation, 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 that 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 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 four 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. In contrast, a total of 376 thousand tons was produced by 32 underground anthracite mines with a total employment of 144 miners. Excluding the one relatively large anthracite mine that employed 33 miners, the average underground anthracite mine employed four miners and produced approximately six thousand (6,000) tons during 1999.

The No. 2 Mine operates in an 84-inch thick vein that pitches at 30 to 40 degrees. The gangway and monkey heading are developed at this time to the third level. The mine is in a producing status and employs five underground and two surface miners. Electric power does not reach beyond the bottom of the slope. The slope hoist will accommodate only four miners or two fully equipped mine rescue team members. The mine is currently accessed by an intake haulage slope to the third level east gangway workings.

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 slope bottom 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 these 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 guarantees 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, Little Buck Coal Company is granted a modification of the application of 30 CFR 49.2(b) to its No. 2 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 Little Buck Coal Company's Petition for Modification of the application of 30 CFR 49.2(b) in the No. 2 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. All mine rescue team members and the alternate shall be examined annually by a physician who shall certify that each person is physically fit to perform mine rescue and recovery work for prolonged periods under strenuous conditions according to the physical requirements stated in CFR Part 49.7 (a-c).

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