

December 13, 2004
In the matter of
Tg Soda Ash, Inc.
Wyoming Soda Ash Mine
ID No. 48-00639

Docket No. M-88-05-M
Petition for Modification

PROPOSED DECISION AND ORDER TO REVOKE

On December 22, 1989, Tg Soda Ash, Inc was granted a modification of the application of 30 CFR §57.22305, (Approved Equipment) to it's Wyoming Soda Ash Mine based upon an alternative method of compliance.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The modification of 30 CFR §57.22305 was conditioned upon compliance with the following:

1. No person shall use the Hilti, Inc. or any other brand of spad driver in the mine until after receiving training in the use/care and safe operation of the drive tool. This training shall also include instruction on the operating conditions contained in this decision and order.
2. The storage of the cartridges of the drive tool, either of the mining machine or in the mine, shall be protected from heat, falling material, or other impact forces, to prevent accidental detonation of the cartridges. Cartridges shall not be loaded into the drive tool until immediately before it is to be fired.
3. The immediate area where the drive tool is to be used shall be tested for methane using an approved hand-held methane testing device before the drive tool is to be fired, and every 10 minutes thereafter until that job is completed. The continuous methane monitor on the mining machine shall not be used as a substitute for these tests.
4. The drive tool shall not be used in any atmospheres containing 0.5 percent or more methane.
5. The auxiliary fan will be operating if the face has been advanced more than 30 feet beyond the last open crosscut.
6. Eye and hearing protection will be worn in the immediate vicinity of where the drive tool is in use.

The Mine Safety and Health Administration (MSHA) has determined, in accordance

with 30 CFR §44.52(b), that the findings originally supporting the modification are no longer valid. A May 6, 2004, MSHA Technical Support Report (Report) on non-permissible cordless drills concluded that non-permissible cordless drills do not at all times provide the same level of protection as the standard.

The Report determined that examining for methane before drilling, followed by continuous monitoring during drilling, will not provide miners equivalent protection as would complying with the standard. Examining before drilling does not detect methane released during drilling because the release of the methane follows a drills penetration of the potentially gassy strata. Also, examining during drilling does not timely detect methane because the drill would be nearer the source of the methane than the methane detector. Methane detectors use catalytic, heat-of-combustion, sensors which do not respond immediately to the presence of methane in the atmosphere. Because of the response time of the methane detector and the proximity of the drill motor to the probable methane release point, if methane is released, the methane level can exceed the action level at the drill before the methane release is detected. The same potential hazards are associated with the spad driver as the cordless drills and the response time for methane detection would be the same in both instances.

The spad drivers described in the Petition for Modification are not permissible and are not intrinsically safe for use in gassy mines or explosive atmospheres. A spad driver approved under 30 CFR Part 15 is available from Hilti Inc., (Model, DXA41 and DX460 MSHA Approval Number PAD-1/00).

MSHA has determined that the potential hazards that could occur with the operation of non-permissible or non-intrinsically spad driver in explosive atmospheres outweigh any gain in efficiency or reduction in potential injuries.

ORDER

Wherefore, pursuant to the authority delegated by the Secretary of Labor to the Administrator for Metal and Nonmetal Mine Safety and Health and pursuant to Section 101(c) of the Federal Mine Safety and Health Act of 1977, 30 U.S.C. Section 811(c), it is ordered that modification of 30 CFR §57. 22305, as it applies to the Wyoming Soda Ash Mine, is hereby **REVOKED**.

/s/ Robert M. Friend

Robert M. Friend
Administrator for Metal and Nonmetal
Mine Safety and Health