

(2) if it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) if in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The negative determination applicable to workers and former workers at Lochmoor Chrysler Jeep, Detroit, Michigan, was based on the findings that the subject firm did not, during the period under investigation, shift to a foreign country sales services like or directly competitive with the sales services supplied by the workers or acquire these services from a foreign country; that the workers' separation, or threat of separation, was not related to any increase in imports of like or directly competitive services; and that the workers did not supply a service that was directly used in the production of an article or the supply of service by a firm that employed a worker group that is eligible to apply for TAA based on the aforementioned article or service.

In the request for reconsideration, the petitioner states that the "trend of Americans buying foreign cars has caused the fortunes of Chrysler to enter bankruptcy * * * causing the car sales companies like Lochmoor to lose there dealerships * * * foreign car sales lots have opened up in its place."

During the initial investigation, the Department obtained information from the subject firm that revealed that the sales services supplied by the workers were not shifted abroad by the subject firm or acquired from a foreign source.

Production of automobiles is not directly competitive with the sales services provided by the workers. Further, the workers did not supply a service that was used by a firm with TAA-certified workers in the production of an article or supply of a service that was the basis for TAA-certification.

The petitioner did not supply facts not previously considered; nor provide additional documentation indicating that there was either (1) a mistake in the determination of facts not previously considered or (2) a misinterpretation of facts or of the law justifying reconsideration of the initial determination.

After careful review of the request for reconsideration, the Department determines that 29 CFR 90.18(c) has not been met.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify

reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed in Washington, DC, this 4th day of August, 2010.

Del Min Amy Chen,

Certifying Officer, Division of Trade Adjustment Assistance.

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DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Notice.

SUMMARY: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and 30 CFR part 44 govern the application, processing, and disposition of petitions for modification. This notice is a summary of petitions for modification filed by the parties listed below to modify the application of existing mandatory safety standards published in Title 30 of the Code of Federal Regulations.

DATES: All comments on the petitions must be received by the Office of Standards, Regulations and Variances on or before September 13, 2010.

ADDRESSES: You may submit your comments, identified by "docket number" on the subject line, by any of the following methods:

1. *Electronic Mail:* Standards-Petitions@dol.gov.
2. *Facsimile:* 1-202-693-9441.
3. *Regular Mail:* MSHA, Office of Standards, Regulations and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209-3939, *Attention:* Patricia W. Silvey, Director, Office of Standards, Regulations and Variances.
4. *Hand-Delivery or Courier:* MSHA, Office of Standards, Regulations and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209-3939, *Attention:* Patricia W. Silvey, Director, Office of Standards, Regulations and Variances.

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. Individuals who submit comments by hand-delivery are required to check in at the receptionist desk on the 21st floor.

Individuals may inspect copies of the petitions and comments during normal business hours at the address listed above.

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 (Telefax). [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 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-2010-031-C.

Petitioner: D & C Mining Corporation, P.O. Box 148, Fries, Virginia 24330.

Mine: D & C Mining Corporation Mine, MSHA I.D. No. 15-18182, located in Harlan, County, Kentucky.

Regulation Affected: 30 CFR 75.507-1(a) (Electric equipment other than power-connection points; outby the last open crosscut; return air; permissibility requirements) and 30 CFR 18.35(a)(5)(i)(ii) (Portable (trailing) cables and cords).

Modification Request: The petitioner requests a modification of the existing standard to permit an increase in the maximum length of trailing cables supplying power to permissible pumps at the mine. The petitioner states that: (1) This petition will apply only to trailing cables supplying three-phase, 480-volt power for permissible pumps; (2) the maximum length of the 480-volt power for permissible pumps will be 2100 feet; (3) the 480-volt power for permissible pump trailing cables will not be smaller than #6 American Wire Gauge (AWG); (4) all circuit breakers used to protect trailing cables exceeding the pump approval length or Table 9 of 30 CFR Part 18 will have an instantaneous trip unit calibrated to trip at 70 percent of phase-to-phase short-

circuit current. The trip setting of these circuit breakers will be sealed or locked, and these circuit breakers will have permanent, legible labels. Each label will identify the circuit breaker as being suitable for protecting the trailing cables. This label will be maintained legible; (5) replacement instantaneous trip units, used to protect pump trailing cables exceeding the length of item #4 will be calibrated to trip at 70 percent of the available phase to phase short-circuit current and this setting will be sealed or locked; (6) permanent warning labels will be installed and maintained on the covers of the power center to identify the location of each sealed or locked short-circuit protection device. These labels will warn miners not to change or alter these short-circuit settings; (7) all future pump installations with excessive cable lengths will have a short-circuit survey conducted and items 1–6 will be implemented. A copy of each pumps short-circuit survey will be available at the mine site for inspection; (8) the proposed alternative method will not be implemented until miners who have been designated to examine the integrity of seals or locks, verify the short-circuit settings, and proper procedures for examining trailing cable for defects and damage have received training in the following elements: (a) Training in mining methods and operating procedures that will protect the trailing cables against damage; (b) training in the proper procedures for examining the trailing cables to ensure the cables are in safe operating condition; (c) training in hazards of setting the instantaneous circuit breakers too high to adequately protect the trailing cables, and (d) training in how to verify the circuit interrupting device(s) protecting the trailing cable(s) are properly set and maintained; and (9) within sixty days after this petition is granted, proposed revisions for approved 30 CFR part 48 training plans will be submitted to the District Manager for the area in which the mine is located. The petitioner further states that the procedures of 30 CFR 48.3 for approval of proposed revisions to already approved training plans will apply. The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection to all miners than is provided by the existing standards.

Docket Number: M–2010–032–C.

Petitioner: M–Class Mining Company, P.O. Box 227, Johnston City, Illinois 62951.

Mine: MC No. 1 Mine, MSHA I.D. No. 11–03189, located in Franklin County, Illinois.

Regulation Affected: 30 CFR 75.1700 (Oil and gas wells).

Modification Request: The petitioner requests a modification of the existing standard to permit cleaning out, preparing, plugging and replugging of oil and gas wells utilizing the following terms and conditions: 1. District Manager Approval; (a) a safety barrier of 300 feet in diameter (150 feet between any mined area and a well) will be maintained around all oil and gas wells to include all active, inactive, abandoned, shut-in, previously plugged wells, and water injection wells, until approval to proceed with mining has been obtained from the District Manager. After District Manager approval, the mine operator will then mine within the safety barrier of the well, subject to the terms and conditions of this petition. 2. Plugging, and Replugging or Gas Wells; (1) the operator will completely clean out the well from the surface to at least 200 feet below the base of the lowest mineable coal seam, unless the District Manager requires cleaning to a greater depth based on his judgment as to what is required due to the geological strata or due to the pressure within the well (the operator will provide the District Manager with all information it possesses concerning the geologic nature of the strata and the pressure of the well). The operator will remove all material from the entire diameter of the well, wall to wall; (2) the operator will prepare down-hole logs for each well. They will consist of a caliper survey and log(s) suitable for determining the top, bottom, and thickness of all coal seams and potential hydrocarbon producing strata and the location for a bridge plug. In addition, a journal will be maintained describing the depth and nature of each material encountered. The bit size and type used to drill each portion of the hole; length and type of each material used to plug the well; length of casing(s) removed, perforated or ripped or left in place, any sections where casing was cut or milled; and other pertinent information concerning cleaning and sealing the well. Invoices, work-orders, and other records relating to all work on the well will be maintained as part of this journal and provided to MSHA upon request; (3) When cleaning out the well, the operator will make a diligent effort to remove all of the casing in the well. If it is not possible to remove all of the casing, the operator will take appropriate steps to ensure that the annulus between the casing and between the casings and the well walls are filled with expanding (minimum 0.5% expansion upon setting) cement

and contain no voids. The casing will be cut or milled at all mineable coal seam levels if it cannot be removed. Any casing that remains will be perforated or ripped. If the operator, using a casing bond log, can demonstrate to the satisfaction of the District Manager that all annuli in the well are already adequately sealed with cement, the operator will not be required to perforate or rip the casing for that particular well. When multiple casing and tubing strings are present in the coal horizon, any casing that remains will be ripped or perforated and filled with expanding cement as indicated above. An acceptable casing bond log for each casing and tubing string is needed if used in lieu of ripping or perforating multiple strings. The petitioner has listed a complete list of procedures that will be utilized when cleaning out, preparing, plugging, and replugging oil or gas wells. Persons may review these procedures at the MSHA address listed in this notice. The petitioner states that: (1) Within 30 days after this petition becomes final, revisions for the 30 CFR part 48 training plan will be submitted to the District Manager. The proposed revisions will include initial and refresher training regarding compliance with the terms and conditions stated in this petition. All miners in the mine-through of a well will be provided with training regarding the requirements of this petition prior to mining within 150 feet of the next well to be mined through; (2) the responsible person required by 30 CFR 75.1501 will be responsible for well intersection emergencies. The well intersection procedures will be reviewed by the responsible person prior to any planned intersection; and (3) within 30 days after this petition becomes final, the operator will submit proposed revisions for its approved mine emergency evacuation and firefighting plan required by 30 CFR 75.1501. The operator will revise the plans to include the hazards and evacuation procedures to be used for well intersections. All underground miners will be trained in the revised plans within 30 days of submittal of the revised evacuation plans. The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded to the miners under 30 CFR 75.1700.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

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