

alleging that effective January 30, 1996, the Medical Examining Board of the State of Wisconsin (Board) terminated a stay of an earlier suspension of Respondent's license to practice medicine in the State of Wisconsin, and therefore, Respondent is not authorized to handle controlled substances in that state.

By Order dated July 29, 1997, Judge Bittner gave Respondent the opportunity to file a response to the Government's motion by August 19, 1997. No such response was filed by Respondent.

On September 18, 1997, Judge Bittner issued her Opinion and Recommended Decision, finding that Respondent lacked authorization to handle controlled substances in the State of Wisconsin; granting the Government's Motion for Summary Disposition; and recommending that Respondent's DEA Certificate of Registration be revoked. Neither party filed exceptions to her opinion, and on October 22, 1997, Judge Bittner transmitted the record of these proceedings to the Acting Deputy Administrator.

The Acting Deputy Administrator has considered the record in its entirety, and pursuant to 21 CFR 1316.67, hereby issues his final order based upon findings of fact and conclusions of law as hereinafter set forth. The Acting Deputy Administrator adopts, in full, the Opinion and Recommended Decision of the Administrative Law Judge.

The Acting Deputy Administrator finds that on December 14, 1995, the Board issued its Final Decision and Order, suspending Respondent's Wisconsin medical license for a period of not less than four years, with the provision for successive three-month stays of the suspension conditioned upon compliance with certain conditions and limitations on the license. Subsequently, the Board ordered that the stay of the suspension of Respondent's medical license be terminated, and his license was suspended effective January 30, 1996. Thereafter, on March 1, 1996, and February 3, 1997, the Board denied petitions filed by Respondent for the reinstatement of the stay of suspension of his medical license. Therefore, the Acting Deputy Administrator finds that Respondent is not currently authorized to handle controlled substances in the State of Wisconsin.

The Acting Deputy Administrator finds that in light of the fact that Respondent is not currently licensed to practice medicine in the State of Wisconsin, it is reasonable to infer that he is not currently authorized to handle

controlled substances in that state. Respondent did not file a response to the Government's motion, and therefore does not dispute that he is not currently authorized to practice medicine or handle controlled substances in the State of Wisconsin.

The DEA does not have statutory authority under the Controlled Substances Act to issue or maintain a registration if the applicant or registrant is without state authority to handle controlled substances in the state in which he conducts his business. 21 U.S.C. 802(21), 823(f) and 824(a)(3). This prerequisite has been consistently upheld. See *Romeo J. Perez, M.D.*, 62 FR 16,193 (1997); *Demetris A. Green, M.D.*, 61 FR 60,728 (1996); *Dominick A. Ricci, M.D.*, 58 FR 51,104 (1993).

Here it is clear that Respondent is not currently authorized to handle controlled substances in the State of Wisconsin, the state where he is registered with DEA. Therefore, Respondent is not entitled to a DEA registration in that state.

The Acting Deputy Administrator further finds that under the circumstances, Judge Bittner properly granted the Government's Motion for Summary Disposition. It is well-settled that when no question of material fact is involved, a plenary, adversary administrative proceeding involving evidence and cross-examination of witnesses is not obligatory. See *Phillip E. Kirk, M.D.*, 48 FR 32,887 (1983), *aff'd sub nom Kirk v. Mullen*, 749 F.2d 297 (6th Cir. 1984); *NLRB v. International Association of Bridge, Structural and Ornamental Ironworkers*, AFL-CIO, F.2d 634 (9th Cir. 1977); *United States v. Consolidated Mines & Smelting Co.*, 44 F.2d 432 (9th Cir. 1971).

Accordingly, the Acting Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration BD0469254, previously issued to Anthony P. Dalton, M.D., be, and it hereby is, revoked. The Acting Deputy Administrator further orders that any pending applications for the renewal of such registration, be, and they hereby are, denied. This order is effective January 2, 1998.

Dated: November 20, 1997.

**James S. Milford,**

*Acting Deputy Administrator.*

[FR Doc. 97-31470 Filed 12-1-97; 8:45 am]

BILLING CODE 4410-09-M

## DEPARTMENT OF JUSTICE

### Immigration and Naturalization Service

#### Agency Information Collection Activities: Proposed Collection; Comment Request

**ACTION:** Request OMB emergency approval; guarantee of payment.

The Department of Justice, Immigration and Naturalization Service (INS) has submitted the following information collection request (ICR) utilizing emergency review procedures, to the Office of Management and Budget (OMB) for review and clearance in accordance with the section 1320.13(a)(1)(ii) and (a)(2)(iii) of the Paperwork Reduction Act of 1995. The INS has determined that it cannot reasonably comply with the normal clearance procedures under this Part because normal clearance procedures are reasonably likely to prevent or disrupt the collection of information. Therefore, OMB approval has been requested by November 30, 1997. If granted, the emergency approval is only valid for 180 days. All comments and/or questions pertaining to this pending request for emergency approval *Must* be directed to OMB, Office of Information and Regulatory Affairs, Attention: Ms. Debra Bond, 202-395-7316, Department of Justice Desk Officer, Washington, DC 20503. Comments regarding the emergency submission of this information collection may also be submitted via facsimile to Ms. Bond at 202-395-6974.

During the first 60 days of this same period, a regular review of this information collection is also being undertaken. During the regular review period, the INS requests written comments and suggestions from the public and affected agencies concerning the proposed collection of information. Comments are encouraged and will be accepted until [Insert date of the 60th day from the date that this notice is published in the **Federal Register**]. During the 60-day regular review *All* comments and suggestions, or questions regarding additional information, to include obtaining a copy of the proposed information collection instrument with instructions, should be directed to Mr. Richard A. Sloan, 202-514-3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary

for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

#### Overview of This Information Collection

(1) *Type of Information Collection:* Extension of current information collection.

(2) *Title of the Form/Collection:* Guarantee of Payment.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I-510. Office of Detention and Deportation, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Business or other for-profit. Section 253 of the Immigration and Nationality Act (Act) provides that the master or agent of a vessel or aircraft shall guarantee payment for expenses incurred for an alien crewman who arrived in the United States and is afflicted with any disease or illness mentioned in Section 255 of the Act.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 100 respondents at .083 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 8 annual burden hours.

If additional information is required during the first 60 days of this same regular review period contact Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW, Washington, DC 20530.

Dated: November 25, 1997.

**Robert B. Briggs,**

*Department Clearance Officer, United States Department of Justice.*

[FR Doc. 97-31498 Filed 12-1-97; 8:45 am]

BILLING CODE 4410-18-M

## DEPARTMENT OF LABOR

### Mine Safety and Health Administration

#### Petitions for Modification

The following parties have filed petitions to modify the application of mandatory safety standards under section 101(c) of the Federal Mine Safety and Health Act of 1977.

##### 1. Mountain Coal Company

[Docket No. M-97-117-C]

Mountain Coal Company, P.O. Box 591, Somerset, Colorado 81434 has filed a petition to modify the application of 30 CFR 75.1906(e) and (f) (transport of diesel fuel) to its West Elk Mine (I.D. No. 05-03672) located in Gunnison County, Colorado. The petitioner proposes to use 1700 gallons of diesel fuel that would be transported at one time on a diesel fuel transportation unit with the tank permanently fixed to the unit, with a total capacity no greater than 1700 gallons of diesel fuel. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

##### 2. Arch of Kentucky

[Docket No. M-97-118-C]

Arch of Kentucky, P.O. Box 787, Lynch, Kentucky 40855 has filed a petition to modify the application of 30 CFR 75.360(b)(9) (preshift examination) to its 37 Mine (I.D. No. 15-04670) located in Harlan County, Kentucky. The petitioner requests a variance for three different isolated locations involving dewatering pumps and the associated electrics located at the 95 and 96 Crosscuts—Main Track Heading, the 150 Crosscut—Main Track Heading, and the 34 Crosscut L-14. The petitioner proposes to have the electrical installations ventilated by a separate intake split of air that would be ventilated directly into the return where no employees regularly work in the vicinity or by the electrical installations; to install a carbon monoxide detection sensor at each location that would be monitored at all times while employees are underground and to implement the preshift requirement in the event the carbon monoxide system becomes inoperative, until the system is repaired; and to inspect the electrical installations for hazardous conditions on a weekly basis. The petitioner states that the excessive travel to the three locations specified in this petition would result in a diminution of safety because the fireboss is traveling alone each shift for long distances to remote areas of the mine.

### 3. The Pittsburg & Midway Coal Mining Company

[Docket No. M-97-119-C]

The Pittsburg & Midway Coal Mining Company, P.O. Box 6518, Englewood, Colorado 80155-6518 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) to its Sebree #1 Mine (I.D. No. 15-17044) located in Webster County, Kentucky. The petitioner requests a variance to allow the use of a spring-loaded device with specific fastening characteristics with its fastening configuration to secure plugs and electrical-type connectors to batteries and to the permissible mobile-powered equipment, which the batteries serve, instead of using a padlock. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

### 4. Island Creek Coal Company

[Docket No. M-97-120-C]

Island Creek Coal Company, Consol Plaza, 1800 Washington Road, Pittsburgh, Pennsylvania 15241-1421 has filed a petition to modify the application of 30 CFR 75.1905-1(g) (diesel fuel piping system) to its Ohio No. 11 Mine (I.D. No. 15-03178) located in Union County, Kentucky. The petitioner requests a variance to permit the transportation of diesel fuel from a surface diesel fuel oil storage tank directly into the fuel tank of individual units of underground diesel equipment. The petitioner has listed specific procedures in this petition for implementing its alternative method of transporting fuel from the surface to underground diesel equipment. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

### 5. Consol of Kentucky, Inc.

[Docket No. M-97-121-C]

Consol of Kentucky, Inc., Consol Plaza, 1800 Washington Road, Pittsburgh, Pennsylvania 15241-1421 has filed a petition to modify the application of 30 CFR 75.1101-8 (water sprinkler systems; arrangement of sprinklers) to its Ridge No. 8 Mine (I.D. No. 15-17972) located in Floyd County, Kentucky. The petitioner requests a variance to permit the use of a single line of automatic sprinklers for its fire protection system on main and secondary belt conveyors. The petitioner proposes to use a single overhead pipe system with 1/2-inch orifice automatic sprinklers located on 10-foot centers, located to cover 50 feet