

Alternately, Appendix A may be viewed at www.darenw.noaa.gov/kuro.htm.

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[FR Doc. 02-7420 Filed 3-27-02; 8:45 am]

BILLING CODE 4410-15-M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification

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

1. Laurel Creek Co., Inc.

[Docket No. M-2002-014-C]

Laurel Creek Co., Inc., P.O. Box 57, Dingess, West Virginia 25671 has filed a petition to modify the application of 30 CFR 75.503 (Permissible electric face equipment; maintenance) and 30 CFR 18.41(f) (Plug and receptacle-type connectors) to its Mine No. 4 (I.D. No. 46-08902) located in Mingo County, West Virginia. For mobile battery-powered machines used inby the last open crosscut, the petitioner proposes to use a spring-loaded device on battery plug connectors in lieu of a padlock. This is intended to prevent the plug connector from accidentally disengaging while under load. The petitioner states that a warning tag that states "Do Not Disengage Under Load," will be installed on all battery plug connectors and that instructions on the safe practices and provisions for complying with its proposed alternative method will be provided to all persons who operate or maintain the battery-powered machines. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

2. Peabody Coal Company

[Docket No. M-2002-015-C]

Peabody Coal Company, 1970 Barrett Court, P.O. Box 1990, Henderson, Kentucky 42419-1990 has filed a petition to modify the application of 30 CFR 75.364(b)(2) (Weekly examination) to its Camp #11 Mine (I.D. No. 15-08357) located in Union County, Kentucky. Due to hazardous roof conditions and roof falls blocking the air course entries, the petitioner proposes to continuously monitor methane and oxygen concentrations at evaluation points closest to the mine fan and XC-

91. The petitioner proposes to use a Conspic Mine Monitoring System that would be manned around the clock and set up to alarm at oxygen levels less than 19.5% and methane levels greater than 1.0%. The petitioner states that weekly examinations would be conducted and evaluation points would be checked by a certified person to determine the methane and oxygen concentrations, and the volume of air. The results of the examinations would be recorded in a book and maintained on the surface of the mine. The petitioner asserts that application of the standard would result in diminution of safety to the miner and that the proposed alternative method would provide at least the same measure of protection as the existing standard.

3. Blue Diamond Coal Company

[Docket No. M-2002-016-C]

Blue Diamond Coal Company, P.O. Box 47, Slemp, Kentucky 41763-0047 has filed a petition to modify the application of 30 CFR 77.214 (Refuse piles; general) to its #76 Preparation Plant (I.D. No. 15-16520) located in Perry County, Kentucky. The petitioner requests a modification of the existing standard to allow Coarse Refuse Fill #1 to be placed over abandoned mine openings located in the Leatherwood (5A) seam using specific procedures outlined in this petition. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

4. Knox Creek Coal Corporation

[Docket No. M-2002-017-C]

Knox Coal Corporation, P.O. Box 519, Raven, Virginia 24639 has filed a petition to modify the application of 30 CFR 75.350 (Air course and belt haulage entries) to its Tiller No. 1 Mine (I.D. No. 44-06804) located in Tazewell County, Virginia. The petitioner requests a modification of the existing standard to allow the use of belt air to ventilate active working places. The petitioner proposes to install a low-level carbon monoxide detection system as an early warning fire detection system in all belt entries used as intake spacing between air courses. The distance between sensors will not exceed 1,000 feet along each conveyor belt entry. The petitioner asserts that application of the existing standard would result in a diminution of safety to the miners and that the proposed alternative method would provide at least the same measure of protection as the existing standard.

5. Paramount Coal Corporation

[Docket No. M-2002-018-C]

Paramount Coal Corporation, P.O. Box 7, Dante, Virginia 24237 has filed a petition to modify the application of 30 CFR 75.350 (Air course and belt haulage entries) to its Virginia Commonwealth #5 Mine (I.D. No. 44-06929) located in Wise County, Virginia. The petitioner requests a modification of the existing standard to allow the use of belt air to ventilate active working places. The petitioner proposes to install a low-level carbon monoxide detection system as an early warning fire detection system in all belt entries used as intake air course. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

6. White County Coal, LLC

[Docket No. M-2002-019-C]

White County Coal, LLC, 1525 County Road 1300 N., P.O. Box 457, Carmi, Illinois 62821 has filed a petition to modify the application of 30 CFR 75.503 (Permissible electric face equipment; maintenance) to its Pattiki II Mine (I.D. No. 11-03058) located in White County, Illinois. The petitioner proposes to use a round, eye-bolt snap device to secure screw caps in place on battery plugs of battery operated scoops and tractors. This is in lieu of using its presently approved bolt and nut padlock. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

7. Alfred Brown Coal Company

[Docket No. M-2002-020-C]

Alfred Brown Coal Company, 71 Hill Road, Hegins, Pennsylvania 17938 has filed a petition to modify the application of 30 CFR 75.1400 (Hoisting equipment; general) to its 7 Ft Slope Mine (I.D. No. 36-08893) located in Schuylkill County, Pennsylvania. The petitioner proposes to use a slope conveyance (gunboat) in transporting persons without installing safety catches or other no less effective devices. The petitioner would instead use increased rope strength and secondary safety rope connections in place of such devices. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

8. Alfred Brown Coal Company

[Docket No. M-2002-021-C]

Alfred Brown Coal Company, 71 Hill Road, Hegins, Pennsylvania 17938 has filed a petition to modify the application of 30 CFR 75.335

(Construction of seals) to its 7 Ft Slope Mine (I.D. No. 36-08893) located in Schuylkill County, Pennsylvania. The petitioner requests a modification of the existing standard to permit an alternative method of seal construction. The petitioner proposes to use wooden materials of moderate size and weight due to the difficulty in accessing previously driven headings and breasts containing inaccessible abandoned workings; to accept a design criteria in the 10 psi range; and to permit the water trap to be installed in the gangway seal and sampling tube in the monkey seal for seals installed in pairs. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

9. Alfred Brown Coal Company

[Docket No. M-2002-022-C]

Alfred Brown Coal Company, 71 Hill Road, Hegins, Pennsylvania 17938 has filed a petition to modify the application of 30 CFR 75.1202 and 75.1202-1(a) (Temporary notations, revisions, and supplements) to its 7 Ft Slope Mine (I.D. No. 36-08893) located in Schuylkill County, Pennsylvania. The petitioner proposes to revise and supplement mine maps annually instead of every 6 months as required, and to update maps daily by hand notations. The petitioner also proposes to conduct surveys prior to commencing retreat mining and whenever either a drilling program under 30 CFR 75.388 or plan for mining into inaccessible areas under 30 CFR 75.389 is required. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

10. Alfred Brown Coal Company

[Docket No. M-2001-023-C]

Alfred Brown Coal Company, 71 Hill Road, Hegins, Pennsylvania 17938 has filed a petition to modify the application of 30 CFR 75.360 (Pre-shift examination at fixed intervals) to its 7 Ft Slope Mine (I.D. No. 36-08893) located in Schuylkill County, Pennsylvania. The petitioner requests a modification of the existing standard to permit an alternative method of examination and evaluation of seals. The alternative method would include a visual examination of each seal for physical damage from the slope gunboat during the pre-shift examination after an air quantity reading is taken just inby the intake portal. The petitioner proposes to instruct the examiner to take an additional reading and gas test for methane, carbon dioxide, and

oxygen deficiency at intake air split locations just off the slope in the gangway portion of the working section. A record of all readings, gas test results, and his/her initials, date, and time and location of examinations will be available to anyone prior to entering the mine. The petitioner states that regardless of the conditions at the section evaluation point, the entire length of the slope would be traveled and physically examined on a monthly basis. A record of the dates, time, and the initials of the person conducting the examinations will be made available on the surface. The petitioner also states that any hazards would be corrected prior to transporting personnel in the slope. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

11. Alfred Brown Coal Company

[Docket No. M-2001-024-C]

Alfred Brown Coal Company, 71 Hill Road, Hegins, Pennsylvania 17938 has filed a petition to modify the application of 30 CFR 75.1200(d) & (i) (Mine map) to its 7 Ft Slope Mine (I.D. No. 36-08893) located in Schuylkill County, Pennsylvania. The petitioner proposes to use cross-sections instead of contour lines through the intake slope, at locations of rock tunnel connections between veins, and at 1,000 foot intervals of advance from the intake slope; and to limit the required mapping of the mine workings above and below to those present within 100 feet of the vein being mined except when veins are interconnected to other veins beyond the 100-foot limit through rock tunnels. The petitioner asserts that due to the steep pitch encountered in mining anthracite coal veins, contours provide no useful information and their presence would make portions of the map illegible. The petitioner further asserts that use of cross-sections in lieu of contour lines has been practiced since the late 1800's thereby providing critical information relative to the spacing between veins and proximity to other mine workings which fluctuate considerably. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

12. Rosebud Mining Company

[Docket No. M-2002-025-C]

Rosebud Mining Company, R.D. 9, Box 379A, Kittanning, Pennsylvania 16201 has filed a petition to modify the application of 30 CFR 75.1100-2(e)(2) (Quantity and location of firefighting equipment) to its Logansport Mine (I.D.

No. 36-08841) located in Armstrong County, Pennsylvania. The petitioner requests a modification of the existing standard to permit the use of an alternative method of compliance for firefighting equipment required at temporary electrical installations. The petitioner proposes to use two (2) fire extinguishers or one fire extinguisher of twice the required capacity at all temporary electrical installations in lieu of using 240 pounds of rock dust. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard and would not result in a diminution of safety to the miners.

13. Peabody Coal Company

[Docket No. M-2002-026-C]

Peabody Coal Company, 1970 Barrett Court, P.O. Box 1990, Henderson, Kentucky 42419-1990 has filed a petition to modify the application of 30 CFR 75.1101-1(b) (Type and quality of firefighting equipment) to its Camp #11 Mine (I.D. No. 15-08357) located in Union County, Kentucky. The petitioner requests a modification of the existing standard to permit an alternative method for conducting functional tests of its complete deluge-type water system. The petitioner proposes to conduct these tests on a weekly basis instead of annually. The petitioner states that the existing standard will not allow the system to be functionally tested weekly because the dust covers could be blown off and to return the water spray system safely for compliance with the existing standard, the belt would have to be de-energized, locked and tagged, and the dust cover would have to be replaced, which would take approximately 30 minutes per belt drive. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard since any restrictions to the spray system otherwise prevented by the blow-off dust covers would be recognized during the weekly functional test and promptly corrected.

14. Dakota Mining, Inc.

[Docket No. M-2002-027-C]

Dakota Mining, Inc., 430 Harper Park Drive, Beckley, West Virginia 25801 has filed a petition to modify the application of 30 CFR 75.1002 (Location of trolley wires, trolley feeder wires, high-voltage cables, and transformers) to its #2 Mine (I.D. No. 46-08589) located in Boone County, West Virginia. The petitioner proposes to replace a low-voltage continuous miner with a 2,400-

volt Joy 12CM27 machine. The petitioner states that mining at the #2 Mine is approaching an area of the reserve where the seam height thickens and is concerned that the current equipment will not be capable of reaching the roof without blocking and ramping the continuous miner. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

Request for Comments

Persons interested in these petitions are encouraged to submit comments via e-mail to "comments@msha.gov," or on a computer disk along with an original hard copy to the Office of Standards, Regulations, and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 627, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before April 29, 2002. Copies of these petitions are available for inspection at that address.

Dated at Arlington, Virginia this 22nd day of March 2002.

Marvin W. Nichols, Jr.,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. 02-7466 Filed 3-27-02; 8:45 am]

BILLING CODE 4510-43-U

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 2002-19; Exemption Application Number D-11041]

Notice of Grant of Individual Exemption To Modify Prohibited Transaction Exemption 90-23 (PTE 90-23); Prohibited Transaction Exemption 90-31 (PTE 90-31) and Prohibited Transaction Exemption 90-33 (PTE 90-33) Involving J.P. Morgan Chase & Company and Its Affiliates (the Applicants) Located in New York, NY

AGENCY: Pension and Welfare Benefits Administration, U.S. Department of Labor (the Department).

ACTION: Notice of grant of individual exemption to modify PTE 90-23; PTE 90-31; and PTE 90-33 (collectively, the Exemptions).

SUMMARY: This document contains a notice of grant of a proposed individual administrative exemption which amends: PTE 90-23 (55 FR 20545, May 17, 1990), an exemption which was granted to J.P. Morgan Securities, Inc.; PTE 90-31 (55 FR 23144, June 6, 1990),

an exemption which was granted to Chase Manhattan Bank; and PTE 90-33 (55 FR 23151, June 6, 1990), an exemption which was granted to Chemical Banking Corporation.¹ The Exemptions provide relief for the operation of certain asset pool investment trusts and the acquisition, holding and disposition by employee benefit plans (the Plans) of certificates or debt instruments that are issued by such trusts with respect to which one of the Applicants is the lead underwriter or a co-managing underwriter. This amendment permits the trustee of the trust to be an affiliate of the underwriter. The amendment affects the participants and beneficiaries of the Plans participating in such transactions and the fiduciaries with respect to such Plans.

FOR FURTHER INFORMATION CONTACT: Mr. Gary H. Lefkowitz, Office of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor, telephone (202) 693-8546. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On January 18, 2002, notice was published in the **Federal Register** (67 FR 2699) of the pendency before the Department of a proposed exemption to amend the Exemptions. The amendment, as proposed, would modify the Exemptions, each as subsequently amended by PTE 97-34 (62 FR 39021, July 21, 1997) and PTE 2000-58 (65 FR 67765, November 13, 2000) as set forth below:

The first sentence of section II.A.(4) of the Exemptions is amended to read: "The trustee is not an Affiliate of any member of the Restricted Group, other than an Underwriter."

The only written comment received by the Department on the proposed amendment was submitted by the Applicants, who requested that the Department clarify and restate the Exemptions as a single exemption. In response to that comment, the Department has determined to publish the final exemption as requested, which includes all of the amendments made by PTEs 97-34 and 2000-58.

The Department also received an e-mail message regarding the proposed amendment from an interested person who suggested that the same amendment be made to other

exemptions previously granted by the Department for transactions involving asset-backed securities relating to credit card receivables [e.g., PTE 98-13, 63 FR 17020 (April 7, 1998) regarding MBNA America Bank, N.N.; and PTE 98-14, 63 FR 17027 (April 7, 1998) regarding Citibank (South Dakota), N.A., and Affiliates]. The Department has determined to separately consider a similar amendment to its prior individual exemptions for credit card securitizations in a separate proposal at a later date.

Finally, the Department contacted The Bond Market Association (TBMA) to discuss extending similar relief to all of the prior individual exemptions granted for mortgage-backed and other asset-backed securities (commonly known as the "Underwriter Exemptions"). In this regard, the Department notes that all of the Underwriter Exemptions are essentially identical to the original three Underwriter Exemptions [i.e., PTE 89-88, 54 FR 42582 (October 17, 1989), regarding Goldman, Sachs & Co., et al.; PTE 89-89, 54 FR 42569 (October 17, 1989), regarding Salomon Brothers, Inc.; and PTE 89-90, 54 FR 42597 (October 17, 1989), regarding First Boston Corp.]. In addition, each of the Underwriter Exemptions was also subsequently amended by PTEs 97-34 and 2000-58.² In this regard, the Department anticipates a similar amendment to the remaining Underwriter Exemptions.

Exemption

Under section 408(a) of ERISA and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, subpart B (55 FR 32836, August 10, 1990), the Department amends the following individual exemption for J.P. Morgan Chase & Company and its Affiliates and restates the following individual Prohibited Transaction Exemptions (PTEs) as a single exemption: PTE 90-23 (55 FR 20545, May 17, 1990), an exemption which was granted to J.P. Morgan Securities, Inc.; PTE 90-31 (55 FR 23144, June 6, 1990), an exemption which was granted to Chase Manhattan Bank; and PTE 90-33 (55 FR 23151, June 6, 1990), an exemption which was granted to Chemical Banking Corporation.

I. Transactions

A. The restrictions of sections 406(a) and 407(a) of the Act, and the taxes imposed by sections 4975(a) and (b) of the Code, by reason of section

¹ The notice of proposed exemption for PTE 90-23 was published on February 20, 1990 at 55 FR 5906; the notice of proposed exemption for PTE 90-31 was published on February 21, 1990 at 55 FR 6074; and the notice of proposed exemption for PTE 90-33 was published on February 21, 1990 at 55 FR 6082.

² For a listing of such exemptions, see PTE 2000-58, footnote 1, 65 FR at 67765 (November 13, 2000).