

hearings for the transaction of Commission business and other matters specified, as follows:

Date and Time: Thursday, May 8, 1997, 10 am.

Subject Matter: Consideration of Proposed Decisions on Claims of Holocaust Survivors Against Germany. *Status:* Closed.

All meetings are held at the Foreign Claims Settlement Commission, 600 E Street, NW., Washington, DC. Requests for information, or advance notices of intention to observe an open meeting, may be directed to: Administrative Officer, Foreign Claims Settlement Commission, 600 E Street, NW., Room 6029, Washington, DC 20579. Telephone: (202) 616-6988.

Dated at Washington, DC, April 29, 1997.

David E. Bradley,
Chief Counsel.

[FR Doc. 97-11502 Filed 4-29-97; 2:37 pm]

BILLING CODE 4410-01-P

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. Wilderness Mining Company, Inc.

[Docket No. M-97-17-C]

Wilderness Mining Company, P.O. Box 459, Lyburn, West Virginia 25632 has filed a petition to modify the application of 30 CFR 75.362(d)(2) (on-shift examination) to its Alloy No. 1 Mine (I.D. No. 46-08007) located in Fayette County, West Virginia. The petitioner requests a modification of the standard to allow the use of a methane detector with a visible digital readout attached with a magnet to the side of the miner ripper head while it is trammed to the face, to conduct a methane test in intervals not to exceed 20 minutes during the mining of each extended cut; to take a methane test at the completion of mining each extended cut to preclude the roof bolter operator from having to take a test prior to entering the area; to conduct a methane test using a 20 foot extendable probe, from the second row of bolts inby prior to any electrical equipment being operated in this working place; to have a methane monitor with a digital readout located on every roof bolting machine with the sensor head on the ATRS unit and set to deenergize when the methane reading

is 1.0 percent or more; and to conduct a test for methane on the return side of all face line curtains at the second row of bolts in areas where the faces are not bolted when on-shift examinations are made. The petitioner states that application of the mandatory standard would result in a diminution of safety to the miners. In addition, the petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

2. Meadow River Coal Company, Inc.

[Docket No. M-97-18-C]

Meadow River Coal Company, Inc., P.O. Box 459, Lyburn, West Virginia 25632 has filed a petition to modify the application of 30 CFR 75.362(d)(2) (on-shift examination) to its Meadow River No. 1 Mine (I.D. No. 46-03467) located in Fayette County, West Virginia. The petitioner requests a modification of the standard to allow the use of a methane detector with a visible digital readout attached with a magnet to the side of the miner ripper head while it is trammed to the face, to conduct a methane test in intervals not to exceed 20 minutes during the mining of each extended cut; to take a methane test at the completion of mining each extended cut to preclude the roof bolter operator from having to take a test prior to entering the area; to conduct a methane test using a 20 foot extendable probe from the second row of bolts inby prior to any electrical equipment being operated in this working place; to have a methane monitor with a digital readout located on every roof bolting machine with the sensor head on the ATRS unit and set to deenergize when the methane reading is 1.0 percent or more; and to conduct a test for methane on the return side of all face line curtains at the second row of bolts in areas where the faces are not bolted when on-shift examinations are made. The petitioner states that application of the mandatory standard would result in a diminution of safety to the miners. In addition, the petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

3. C & H Mining Company

[Docket No. M-97-19-C]

C & H Mining Company, HC 73, Box 168, Barbourville, Kentucky 40906 has filed a petition to modify the application of 30 CFR 75.342 (methane monitors) to its No. 8 Mine (I.D. No. 15-17882) located in Knox County, Kentucky. The petitioner proposes to use hand-held continuous-duty methane

and oxygen indicators instead of machine mounted methane monitors on permissible three-wheel tractors. The petitioner asserts that this petition is based on the safety of miners.

4. Becky Coal Company, Inc.

[Docket No. M-97-20-C]

Becky Coal Company, Inc., P.O. Box 171, Siler, Kentucky 40763 has filed a petition to modify the application of 30 CFR 75.380(f)(4)(I) (escapeways; bituminous and lignite mines) to its Blue Gem Mine (I.D. No. 15-16247) located in Whitley County, Kentucky. The petitioner proposes to install two number five or one number ten portable chemical fire extinguisher in the operator's deck of each Mescher tractor operated at its mine; to have the fire extinguisher readily accessible to the operator; and to have each fire extinguisher inspected daily by the equipment operator prior to entering the escapeway and if any defects are found replace the extinguisher before entering. The petitioner asserts that this petition is based on the safety of the miners.

5. D.J.T Coal Company

[Docket No. M-97-21-C]

D.J.T Coal Company, R.D. #4, Box 358-d, Pine Grove, Pennsylvania 17963 has filed a petition to modify the application of 30 CFR 75.901 (protection of low- and medium-voltage three-phase circuits used underground) to its D.J.T Slope (I.D. No. 36-08454) located in Schuylkill County, Pennsylvania. The petitioner requests a modification of the standard to permit the use of an alternative method of compliance for the mines existing 480 volts 3-phase ungrounded Delta system providing power to the underground stationary electrical equipment instead of installing steel armored or grounded rigid steel conduit. The petitioner has outlined in this petition specific procedures for implementing its alternative method. In addition, the petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

6. Brookside Coal Company

[Docket No. M-97-22-C]

Brookside Coal Company, General Delivery, Spring Glen, Pennsylvania 17978 has filed a petition to modify the application of 30 CFR 75.1405 (automatic couplers) to its Diamond Vein Slope Mine (I.D. No. 36-08456) located in Schuylkill County, Pennsylvania. The petitioner requests a modification of the standard to permit the use of bar and pin or link and pin

couplers on its underground haulage equipment. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

7. E & E Fuels

[Docket No. M-97-23-C]

E & E Fuels, P.O. Box 265, Tremont, Pennsylvania 17981 has filed a petition to modify the application of 30 CFR 75.1405 (automatic couplers) to its Orchard Slope Mine (I.D. No. 36-08346) located in Schuylkill County, Pennsylvania. The petitioner requests a modification of the standard to permit the use of bar and pin or link and pin couplers on its underground haulage equipment. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

8. RoxCoal Incorporated

[Docket No. M-97-24-C]

RoxCoal Incorporated, P.O. Box 149, Freudians, Pennsylvania 15541 has filed a petition to modify the application of 30 CFR 75.362(d)(2) (on-shift examination) to its Diamond T B Mine (I.D. No. 36-08223); its Diamond T C Mine (I.D. No. 36-08214); and its Longview Mine (I.D. No. 36-03248) all located in Somerset County, Pennsylvania. The petitioner proposes to use a 20 foot probe to make methane tests from the last row of permanent roof supports when the roof bolting machine enters a working place and to conduct the required twenty minute tests for the roof bolter. The petitioner states that application of the standard would result in a diminution of safety to the miners. In addition, the petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

9. CONSOL of Kentucky, Inc.

[Docket No. M-97-25-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 E3RF Mine (I.D. No. 15-17894) located in Knott County, Kentucky. 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 of fire-resistant belt or 150 feet of non-fire resistant belt, with actuation temperatures between 200 and

230 degrees Fahrenheit, and with water pressure equal to or greater than 10 psi; and to have the sprinklers located not more than 10 feet apart so that the discharge of water will extend over the belt drive, belt take-up, electrical control, and gear reducing unit. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

10. Kiah Creek Mining Company

[Docket No. M-97-26-C]

Kiah Creek Mining Company, P.O. Box 1409, Pikeville, Kentucky 41502 has filed a petition to modify the application of 30 CFR 75.364(b)(4) (weekly examination) to its No. 14 Mine (I.D. No. 15-16501) located in Pike County, Kentucky. Due to a roof fall in front of the No. 3 Seal, traveling the area to physically examine the seal would be unsafe. The petitioner proposes to check the inby and outby sides of the entry daily to determine air quality, quantity, and the percentage of methane on each side of the fall in the entry. The petitioner asserts that its alternative method would provide a safe procedure without having to clean up the fall.

11. Arclar Company

[Docket No. M-97-27-C]

Arclar Company, 29 West Raymond, P.O. Box 444, Harrisburg, Illinois 62946 has filed a petition to modify the application of 30 CFR 75.350 (air courses and belt haulage entries) to its Big Ridge Mine (I.D. No. 11-02879) located in Saline County, Illinois. The petitioner proposes to use intake air from belt haulage entries to ventilate the active working places. The petitioner proposes to install and maintain a carbon monoxide monitoring system along the beltline. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

12. Maple Meadow Mining Company

[Docket No. M-97-28-C]

Maple Meadow Mining Company, General Delivery, Fairdale, West Virginia 25839 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) to its Maple Meadow Mine (I.D. No. 46-03374) located in Raleigh County, West Virginia. The petitioner proposes to replace a padlock on battery plug connectors on mobile battery-powered machines with a threaded ring and a spring loaded device to prevent the plug connector from accidentally disengaging while

under load. The petitioner states that application of the standard would result in a diminution of safety to the miners.

13. Apogee Coal Company d/b/a Arch of Illinois

[Docket No. M-97-29-C]

Apogee Coal Company d/b/a Arch of Illinois, P.O. Box 308, Percy, Illinois 62272-0308 has filed a petition to modify the application of 30 CFR 75.323 (actions for excessive methane) to its Conant Mine (I.D. No. 11-02886) located in Perry County, Illinois. Due to the layout of the Archveyor® system and its corresponding section power system, the petitioner proposes to have the section's transformer located in the intake air/power entry and maintained at least 300 feet away from any type of mining (development or secondary mining/winging). The petitioner states that the intake would feed the air to the active working face, the gob area, and around the bleeder system. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

14. Bridger Coal Company

[Docket No. M-97-30-C]

Bridger Coal Company, P.O. Box 2068, Rock Springs, Wyoming 82902 has filed a petition to modify the application of 30 CFR 77.1607(n) (loading and haulage equipment; operation) to its Bridger Mine (I.D. No. 48-00677) located in Sweetwater County, Wyoming. The petitioner requests a modification of the standard to allow light and medium duty mobile equipment of 50,000 pounds MGWV or less, on which the park brake function is a component of the transmission, to be stabilized when left unattended: (a) with one set of double chock blocks, connected as a single unit, placed around (in front and in back of) one tire of the equipment; or (b) setting the brakes. The petitioner states that whether chock blocks or brakes are used, the front wheels of the equipment would be turned into a bank or berm if parked on a grade. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

15. Bear Ridge Mining, Inc.

[Docket No. M-97-31-C]

Bear Ridge Mining, Inc., P.O. Box 255, Tazewell, Virginia 24651 has filed a petition to modify the application of 30 CFR 75.1710-1 (canopies or cabs; self-propelled electric face equipment; installation requirements) to its No. 1

Mine (I.D. No. 44-06227) located in Tazewell County, Virginia. The petitioner proposes to operate self-propelled electric face equipment without cabs or canopies. The petitioner states that application of the standard would result in a diminution of safety to the miners.

16. Eastern Associated Coal Corporation

[Docket No. M-97-32-C]

Eastern Associated Coal Corporation, 800 Laidley Tower, 500 Lee Street, P.O. Box 1233, Charleston, West Virginia 25324 has filed a petition to modify the application of 30 CFR 75.350 (air courses and belt haulage entries) to its Harris/Rocklick Coal Handling Facility (I.D. No. 46-08610) located in Boone County, West Virginia. The petitioner proposes to mine using a two-entry system with the conveyor haulage located in the return air course, during development of a coal handling facility (tunnel) between two (2) existing preparation plants; the Harris Preparation Plant, MSHA I.D. No. 46-03135, WVDEP 0-72-82; and the Rocklick Preparation Plant, MSHA I.D. No. 46-06448. The petitioner proposes to install a carbon monoxide monitoring system as an early warning fire detection system in the belt entry and primary escapeway of all two-entry developments; and to install sensors in the belt entry and primary escapeway near the center and in the upper third of the entry in a location where exposure to unsafe situations by personnel working on the system would be prevented. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

17. Peabody Coal Company

[Docket No. M-97-33-C]

Peabody Coal Company, 1214 Marissa Road, Marissa, Illinois 62257 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 Marissa Mine (I.D. No. 11-02440) located in Washington County, Illinois. The petitioner proposes to use high-voltage trailing cables (2400-volt) inby the last open crosscut at the sections where continuous miners are working. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

18. Tanoma Mining Company

[Docket No. M-97-34-C]

Tanoma Mining Company, 1809 Chestnut Avenue, P.O. Box 25, Barnesboro, Pennsylvania 15714 has filed a petition to modify the application of 30 CFR 75.326 (now 75.350) (air courses and belt haulage entries) to its Tanoma Mine (I.D. No. 36-06967) located in Indiana County, Pennsylvania. The petitioner requests that paragraph 1B of petition for modification, docket no. M-90-78-C be amended to add the following sentence at the end of the paragraph: When pillaring, the inby sensor is to be located at least 150 feet but no more than 160 feet from the inby end of the RFM. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

19. Birdeye Coal Company, Inc.

[Docket No. M-97-35-C]

Birdeye Coal Company, Inc., HC 66, Box 494, Artemus, Kentucky 40903 has filed a petition to modify the application of 30 CFR 75.380(f)(4)(i) (escapeways; bituminous and lignite mines) to its No. 4 Mine (I.D. No. 15-17676) located in Knox County, Kentucky. The petitioner proposes to install two number five or one number ten portable chemical fire extinguisher in the operator's deck of each Mescher tractor at its mine; to have the fire extinguisher readily accessible to the operator; and to have each fire extinguisher inspected daily by the equipment operator prior to entering the escapeway. If any defects are found, the extinguisher will be replaced before entering the escapeway. The petitioner asserts that this petition is based on the safety of the miners.

20. Long Branch Energy

[Docket No. M-97-36-C]

Long Branch Energy, P.O. Box 776, Danville, West Virginia 25053 has filed a petition to modify the application of 30 CFR 75.503(18.41)(f) (permissible electric face equipment; maintenance) to its No. 22 Mine (I.D. No. 46-08583) located in Logan County, West Virginia. The petitioner proposes to replace a padlock on battery plug connectors on mobile battery-powered machines with a threaded ring and a spring loaded device to prevent the plug connector from accidentally disengaging while under load. The petitioner states that application of the standard would result in a diminution of safety to the miners. In addition, the petitioner asserts that the proposed alternative method would provide at least the same measure of

protection as would the mandatory standard.

21. Texas Utilities Mining Company

[Docket No. M-97-37-C]

Texas Utilities Mining Company, 1601 Bryan Street, Energy Plaza, 18th Floor, Dallas, Texas 75201 has filed a petition to modify the application of 30 CFR 77.807-3 (movement of equipment; minimum distance from high-voltage lines) to its Beckville Strip Mine (I.D. No. 41-02632), and its Tatum Strip Mine (I.D. No. 41-03659) located in Panola County, Texas; its Oak Hill Strip Mine (I.D. No. 41-03660) located in Rusk County, Texas; its Winfield South Strip Mine (I.D. No. 41-03658), and its Winfield North Strip (I.D. No. 41-01900) located in Titus County, Texas. The petitioner requests a modification of the standards to permit various pieces of equipment to pass under or by the overhead high voltage power lines (25,000 volts) used in TUMCO's electric railway/catenary system (the "Electrified Railroad") with a minimum of three feet of clearance between the equipment and the power line. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

22. Lion Mining Company

[Docket No. M-97-38-C]

Lion Mining Company, P.O. Box 209, Jennerstown, Pennsylvania 15547 has filed a petition to modify the application of 30 CFR 75.362(d)(2) (on-shift examination) to its Grove No. 1 Mine (I.D. No. 36-02398) located in Somerset County, Pennsylvania. The petitioner proposes to use a 20-foot probe to make methane tests from the last row of permanent roof supports when the roof bolting machine enters a working place and to conduct the required twenty minute tests for the roof bolter. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

23. Spruce Fork Coal Company, Inc.

[Docket No. M-97-39-C]

Spruce Fork Coal Company, Inc., Route 6, Box 543, Buckhannon, West Virginia 26201 has filed a petition to modify the application of 30 CFR 75.503(b)(2) (permissible electric face equipment; maintenance) to its Spruce Fork Mine No. 1 (I.D. No. 46-08622) located in Upshur County, West Virginia. The petitioner proposes to use a spring loaded locking device, instead of padlocks to secure battery plugs to

machine mounted receptacles, that would prevent the threaded lock ring on a plug from turning and becoming loose unintentionally. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

24. Barrick Goldstrike Mines, Inc.

[Docket No. M-97-02-M]

Barrick Goldstrike Mines, Inc., P.O. Box 29, Elko, Nevada 89803 has filed a petition to modify the application of 30 CFR 56.6309(b) (fuel oil requirements for ANFO) to its Barrick Goldstrike Mine (I.D. No. 26-01089) located in Elko County, Nevada. The petitioner requests a modification of the standard to allow the use of used crankcase oil blended with diesel fuel to prepare ammonium nitrate/fuel oil (ANFO) for blasting. The petitioner has listed in this petition specific details for using crankcase oil, and steps that would be taken to ensure the continued health and safety of the miners.

Request for Comments

Persons interested in these petitions may furnish written comments. These comments must be filed with the Office of Standards, Regulations, and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before June 2, 1997. Copies of these petitions are available for inspection at that address.

Dated: April 24, 1997.

Patricia W. Silvey,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. 97-11342 Filed 4-30-97; 8:45 am]

BILLING CODE 4510-43-P

MERIT SYSTEMS PROTECTION BOARD

Opportunity To File Amicus Briefs in *Swentek v. Office of Personnel Management*, MSPB Docket No. DC-831E-94-0584-A-1

AGENCY: Merit Systems Protection Board.

ACTION: The Merit Systems Protection Board is providing interested parties with an opportunity to submit amicus briefs on whether the Board may grant attorney fees to prevailing appellants under two new criteria proposed by the appellant in *Swentek v. Office of Personnel Management*, MSPB Docket No. DC-831E-94-0584-A-1.

SUMMARY: The appellant in *Swentek v. Office of Personnel Management*, MSPB Docket No. DC-831E-94-0584-A-1, filed a Board appeal of the reconsideration decision of the Office of Personnel Management (OPM) dismissing his application for a disability retirement annuity as untimely filed. The apparently mentally incompetent appellant was represented by pro bono counsel obtained for him under *French v. Office of Personnel Management*, 810 F.2d 1118, 1120 (Fed. Cir. 1987), reh'g denied, 823 F.2d 489 (Fed. Cir. 1987). The Board reversed OPM's reconsideration decision, finding that the filing deadline should be waived because of the appellant's mental incompetence during the filing period.

In his pending attorney fees motion, the appellant has argued that attorney fees are warranted in the interest of justice under 5 U.S.C. § 7701(g)(1). He has proposed two criteria for awarding fees in addition to those set forth in *Allen v. U.S. Postal Service*, 2 M.S.P.R. 420, 434-35 (1980). He describes those two criteria as follows:

1. Where the appellant presented to OPM some evidence of mental incompetence and OPM failed to pursue the matter by undertaking prehearing discovery and did not actively contest the claim of mental incompetence at the Board hearing; and

2. Where the evidence of current mental incompetence persuaded the Board to seek counsel for the appellant. See *French*, 810 F.2d at 1120; *French v. Office of Personnel Management*, 37 M.S.P.R. 496, 499 (1988).

The Board is inviting interested parties to submit amicus briefs addressing whether the Board may grant fees under these criteria.

DATES: All briefs in response to this notice shall be filed with the Clerk of the Board on or before May 30, 1997.

ADDRESSES: All briefs shall include the case name and docket number noted above (*Swentek v. Office of Personnel Management*, MSPB Docket No. DC-831E-94-0584-A-1) and be entitled "Amicus Brief." Briefs should be filed with the Office of the Clerk, Merit Systems Protection Board, 1120 Vermont Avenue, N.W., Washington, DC 20419.

FOR FURTHER INFORMATION CONTACT: Shannon McCarthy, Deputy Clerk of the Board, or Matthew Shannon, Counsel to the Clerk, (202) 653-7200.

Dated: April 25, 1997.

Robert E. Taylor,
Clerk of the Board.

[FR Doc. 97-11243 Filed 4-30-97; 8:45 am]

BILLING CODE 7400-01-M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Government Performance and Results Act of 1993

AGENCY: Federal Mine Safety and Health Review Commission.

ACTION: Notice of request for comments.

SUMMARY: The Government Performance and Results Act of 1993 (GPRA), Pub. Law 103-62, codified in part at 31 U.S.C. 1115-1119, instructs federal agencies to develop performance goals and objectives in order that an agency's actual performance may be measured and compared against those goals and objectives, thus enhancing the effectiveness and efficiency of an agency's work. In developing its goals and objectives under GPRA, the Federal Mine Safety and Health Review Commission solicits the views of those who practice before it and those who are affected by its case dispositions.

DATES: Comments should be received by June 16, 1997.

ADDRESSES: Comments should be sent to Richard L. Baker, Executive Director, Federal Mine Safety and Health Review Commission, 1730 K Street, NW., 6th Floor, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT:

Norman M. Gleichman, General Counsel, Office of the General Counsel, 1730 K Street, NW., 6th Floor, Washington, DC 20006, telephone: 202-653-5610 (202-566-2673 for TDD Relay). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: GPRA charges federal agencies with formulating strategic plans, preparing annual plans setting performance goals, and reporting annually the actual agency performance compared to those goals. In considering how best to formulate its goals and objectives, the Commission has sought to develop measures that would allow it to better evaluate its performance and, ultimately, accomplish its statutory mission under the Federal Mine Safety and Health Act of 1977 (Mine Act), 30 U.S.C. 801 *et seq.* The Commission solicits the views of those who practice before it and those who are directly or indirectly affected by its case disposition to assist the Commission in developing goals and objectives to measure agency performance. Consideration should be given to how these goals will assist in evaluating the Commission's performance and ultimately enhance the accomplishment of its statutory objectives under the Mine Act.

In responding to this notice, the Commission requests that those