

In The Matter of
Swenson Granite Company LLC
Swenson Gray Quarry
I.D. No. 27-00083

PETITION FOR MODIFICATION

Docket No. M-2011-015-M

PROPOSED DECISION AND ORDER

On December 22, 2011, Swenson Granite Company LLC filed a petition seeking a modification of the application of 30 C.F.R. § 56.19090 for the Swenson Gray Quarry, (I.D. No. 27-00083), located in Merrimack County, NH. The Swenson Gray Quarry is a surface, dimension stone mine.

The petitioner alleges that the proposed alternative method outlined in the petition, will at all times guarantee no less than the same measure of protection afforded by the standard.

The mine employs 30 miners operating a single eight hour shift, five days per week. Granite blocks are mined and transported to the surface by derricks and cranes working on multiple levels within the quarry. Rubber tired mobile equipment transports the blocks to the cutting building for further processing. The current access to the quarry consists of a system of ladders and walkways. Approximately 13 miners would be affected by the proposed Petition for Modification.

30 C.F.R. § 56.19090, *Dual signaling systems*, provides in part:

“There shall be at least two effective approved methods of signaling between each of the shaft stations and the hoist room, one of which shall be a telephone or speaking tube”.

The petitioner requested the modification based on Swenson Granite's use of hand signals, radio communications and 100% visibility within the quarry. The petitioner alleges that the proposed alternative method outlined in the petition will, at all times, guarantee no less than the same measure of protection afforded by the standard. The Northeast District conducted an investigation between January 24, 2012, and February 13, 2012, determining the merits of the petition and filed a written report of their findings and recommendations with the Administrator for Metal and Nonmetal Mine Safety and Health. After a careful review of the entire record, including the petition and MSHA's investigative report and recommendations, this Proposed Decision and Order is issued.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Administrator for Metal and Nonmetal Mine Safety and Health finds that the alternative method proposed by the petitioner, with the conditions contained within the order, will at all times guarantee no less than the same measure of protection for miners as afforded by standard by 30 C.F.R. § 56.19090.

ORDER

Wherefore, pursuant to the authority delegated by the Secretary of Labor to the Administrator for Metal and Nonmetal Safety and Health, and pursuant to Section 101(c) of the Federal Mine Safety and Health Act of 1977, 30 U.S.C. § 811(c), it is ordered that a modification of 30 C.F.R. § 56.19090 to Swenson Granite Company LLC as it pertains to signaling between each of the shaft stations and the hoist room, is hereby:

GRANTED, conditioned upon compliance with the following terms and conditions:

1. A portable air horn will be sounded thirty seconds prior to commencement of hoisting operations.
2. Radio communication will be available at all times as a backup to visual signals used by miners in the quarry to communicate with the derrick operator.
3. Signage identifying the company hand signals will be maintained at the quarry, on the man basket, and in break areas.
4. Hand signals hoisting procedures will be incorporated into the mines training plan.
5. Derrick operators assigned to hoist personnel will be task trained on hoisting procedures.
6. The operator will establish a policy and procedure to ensure that the proper radio controller is used. The radios will be monitored for interference and adjusted as necessary at a minimum of 30 days by a qualified technician.
7. Man hoisting will cease immediately when the hoist operator or signalmen cannot see the bottom of the quarry.

Any party to this action desiring a hearing on this matter must file, in accordance with 30 C.F.R. Part 44.14, a request for hearing within 30 days after service of the Proposed Decision and Order. This request for hearing must be filed with the Administrator for Metal and Nonmetal Mine Safety and Health, 1100 Wilson Boulevard, Arlington, Virginia 22209-3939.

If a hearing is requested, the request must contain a concise summary of position concerning the issues of fact or law desired to be raised by the party requesting the hearing, including specific objections to the Proposed Decision and Order. A party other than the petitioner who has requested a hearing shall also comment upon all issues of fact or law presented in the petition. Any party to this action requesting a hearing may indicate a desired hearing site. If no request for a hearing is filed within 30 days after service thereof, this Proposed Decision and Order will become final and must be posted by the operator on the respective mine's bulletin board at the mines at issue herein.

/s/ Neal Merrifield

Neal H. Merrifield
Administrator for Metal and Nonmetal
Mine Safety and Health