

Vulcan Construction Materials, L.P.

Petition for Modification

Manassas Quarry
MSHA I.D. 44-00159

Jack Plant
MSHA I.D. 44-00109

Lawrenceville Quarry
MSHA I.D. 44-00150

Skippers Quarry
MSHA I.D. 44-00136

Hanover Quarry
MSHA I.D. 36-00015

Pacolet Quarry
MSHA I.D. 38-00004

Enka Quarry
MSHA I.D. 31-00084

Rockingham Quarry
MSHA I.D. 31-00198

Barin Quarry
MSHA I.D. 09-00072

Macon Quarry
MSHA I.D. 09-00015

Docket No. M-2012-006-M

Proposed Order Of Dismissal

On August 23, 2012, Vulcan Construction Materials, L.P. (Vulcan) filed a petition under 30 U.S.C. § 811(c) and 30 C.F.R. Part 44 seeking a modification of the application of 30 C.F.R. § 56.14100(b) to its above listed mines. These ten mines are surface mines located in various areas of the United States and are currently mining either crushed limestone or granite.

The standard at 30 C.F.R. § 56.14100(b) on "Safety defects; examination, correction and records" provides:

Defects on any equipment, machinery, and tools that affect safety shall be corrected in a timely manner to prevent the

creation of a hazard to persons.

Vulcan is requesting that MSHA allow certain designated locomotives to be operated with 4 functional track sanders. A track sander is a device used to deliver sand to the rails in front of the driving wheels of a locomotive. Vulcan specifically requests that MSHA allow 2 sets of sanders located on opposite ends of each locomotive regardless of the number of sanders that may have been present originally or could be added. Vulcan further requests that sand not be required to be in the system unless it deems it necessary for the sand to be used to assist with traction, to allow the locomotive to move. Vulcan states that the modification, if granted, "would serve as direct guidance for Vulcan and MSHA on how this [issue] shall be handled from this point forward" and that "[t]his would be a great benefit for everyone involved since there is not a standard that specifically addresses this issue" Vulcan further states that its proposed alternative method "would not detract from worker safety" because the purpose of track sanders is for traction and not braking.

MSHA personnel conducted an investigation of the petition and filed a report of their findings 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, this Proposed Order of Dismissal is issued.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

MSHA's investigation revealed the following facts. Vulcan is an aggregate producer with mines in several states. All ten mines have rail capabilities. A copy of the petition for modification was posted on the mine bulletin board at each mine. At the mines, locomotives are used to switch-out fully loaded cars with empty cars. Switching and loading was observed at over half the mines. Four of the mines had grades exceeding two percent in the areas where the locomotives would travel. The remaining mines had grades averaging one percent. The locomotives at each mine were inspected and the sanders on the working locomotives were operable. The locomotives were used in inclement weather at times to switch or load rail cars ranging from 5 to 25 cars. Some of the locomotives are manned with an operator and some are remotely controlled. Rail crossings at every mine are subject to obstruction or an accident if a train or locomotive does not stop in time. Some locomotive operators stated that, at times, they have had to stop abruptly in an emergency.

Based on MSHA's investigation, MSHA found that the use of track sanders on locomotives aids in braking, helps to slow the locomotive in wet conditions, and contributes to maintaining safe stopping distances. During its investigation, MSHA found that Vulcan's mine locomotives operated in inclement weather and around crossings on a regular basis, and operated on several mines with grades greater than two percent. The track sanders must be in proper working order to protect miners using the locomotive and those exposed to its use.

