

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