

In the matter of  
**Martin County Coal Corp.**  
**Pegasus Mine**  
I.D. No. 15-17330

Petition for Modification  
  
Docket No. **M-1995-132-C**

PROPOSED DECISION AND ORDER

On **September 11, 1995**, a petition was filed seeking a modification of the application of 30 CFR **75.1103-4(a)** to Petitioner's **Pegasus Mine**, located in **Martin County, Kentucky**. The Petitioner alleges that **the proposed alternative method will at all times provide the same measure of protection as the standard.**

MSHA personnel conducted an investigation of the petition and filed a report of their findings and recommendations with the Administrator for Coal Mine Safety and Health. After a careful review of the entire record, including the petition and MSHA's investigative report and recommendation, this Proposed Decision and Order is issued.

Finding of Fact and Conclusion of Law

The alternative method proposed by the Petitioner will not at all times guarantee no less than the same measure of protection afforded the miners under **30 CFR 75.1103-4(a)**.

MSHA's investigation revealed the proposed alternative method consisted of waiving the requirement for the fire detection system to identify the belt flight on which the alarming sensor actuated and instead would rely on the commercial multi-line telephone system connecting a remote continuously manned dispatch office with the underground mine and an automatic telephone dialer recorded message actuated by either the fan stoppage alarm or the fire detection alarm system alarm circuit. The investigation found that the proposed alternative did not assure that the dialer would be actuated if the alarm system battery back up is not adequately charged; that the auto-dial message informed the dispatcher only that either the mine fan alarm or the fire detection alarm had been actuated; that even though the dispatcher could make radio contact with a roving security guard or some company employee by two-way radio, the travel time to the mine site could be extensive with the most direct route frequently blocked by loaded rail road cars; that there is uncertainty that once arriving at the surface entrance area of the mine that the unspecified person would know where or how to differentiate the type of alarm or to interpret the fire detection system's surface module signal to identify the fire

location; that the unspecified person dispatched to the mine surface entrance or the dispatcher would know how many or where men were working underground or which phone locations and numbers to contact; that should attempts to contact underground personnel fail, what signal, such as withdrawing power to the underground mine belt system or the entire underground mine, would bring persons to the telephone system or how to withdraw such power; and that such an unspecified person could not be relied on to render effective assistance to assure timely evacuation of the mine or early detection and effective fire fighting should a fire occur.

MSHA concludes that the proposed alternative method does not provide an effective alternative to having a responsible person located at the mine site at all times persons are underground who is: (1) trained and knowledgeable of the mine's specific fire fighting and evacuation needs; (2) familiar with the mines surface facilities including its electrical system and various detection and alarm capabilities; (3) familiar with the current underground work locations and number of persons underground; (4) able at all times to hear or see an alarm and immediately interpret its source and render immediate assistance to endangered underground miners. Furthermore, MSHA concludes that the proposed alternative if implemented would not comply with the intents of 30 CFR 75.1103-5, 75.1103-4(a) or 75.311(e) which are intended to assure as early detection of fire in belt entries or of fan stoppage as possible and for immediate action to withdraw endangered miners. Neither MSHA's petition investigators nor the reviewers could identify means of amending the petitioner's proposed alternative method to achieve the intended protection.

On the basis of the petition and the findings of MSHA's investigation, **Martin County Coal Corp.** is **not** granted a modification of the application of 30 CFR 75.1103-4(a) to its **Pegasus Mine**.

#### ORDER

Wherefore, pursuant to the authority delegated by the Secretary of Labor to the Administrator for Coal Mine Safety and Health, and pursuant to Section 101(c) of the Federal Mine Safety and Health Act of 1977, 30 U.S.C., sec. 811(c), it is ordered that **Martin County Coal Corp.'s** Petition for Modification of the application of 30 CFR 75.1103-4(a) in the **Pegasus Mine** is hereby:

**DENIED.**

Any party to this action desiring a hearing on this matter must file in accordance with 30 CFR 44.14, within 30 days. The request for hearing must be filed with the Administrator for Coal

Mine Safety and Health, 1100 Wilson Boulevard, Arlington,  
Virginia 22209-3939.

If a hearing is requested, the request shall contain a concise summary of position on the issues of fact or law desired to be raised by the party requesting the hearing, including specific objections to the proposed decision. A party other than Petitioner who has requested a hearing shall also comment upon all issues of fact or law presented in the petition, and 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, the Decision and Order will become final and must be posted by the operator on the mine bulletin board at the mine.

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John F. Langton  
Acting Deputy Administrator  
for Coal Mine Safety and Health