

November 26, 2007

In the matter of:
T.J.S. Mining, Inc. and
Penn View Mining, Inc.

Petition for Modification
Docket No. M-2006-074-C

Rossmoyne No. 1 Mine
I.D. No. 36-09075

Darmac No. 2 Mine
I.D. No. 36-08135

T.J.S. No. 5 Mine
I.D. No. 36-09159 and

Penn View Mine
I.D. No. 36-08741

PROPOSED DECISION AND ORDER

On August 31, 2006 a petition was filed seeking a modification of the application of 30 C.F.R. § 75.312(c) to T.J.S. Mining, Inc.'s and Penn View Mining, Inc.'s Rossmoyne No. 1 Mine, located in Indiana County, Pennsylvania; Darmac No. 2 Mine, located in Armstrong County, Pennsylvania; T.J.S. No. 5 Mine, located in Armstrong County, Pennsylvania; and Penn View Mine, located in Indiana County, Pennsylvania. 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 reports of their findings with the Administrator for Coal Mine Safety and Health. After a careful review of the entire record, including the petition and MSHA's investigative reports, this Proposed Decision and Order (PDO) is issued.

Findings 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 C.F.R. § 75.312(c). The standard reads, in relevant part,

(c) At least every 31 days, the automatic fan signal device for each main mine fan shall be tested by stopping the fan. Only persons necessary to evaluate the effect of the fan stoppage or restart, or to perform maintenance or repair work that cannot otherwise be made while the fan is operating, shall be permitted underground.

The petitioner proposes an alternate method of performing the 31-day test of the automatic fan signal device. Petitioner proposes to check the fans' airflow alarm system by closing a brass ball valve located between the airflow switch and the fan housing in lieu of shutting down the fan and removing the miners from the mine. A Dry-Sys Airflow Switch, Model 955R, manufactured by FECO was installed at each main mine fan as part of the proposed fan signal test device. The switch is intended to detect a loss of ventilating pressure at the main mine fan. In order to induce a loss of pressure to the switch without stopping the fan, a ball valve located between the switch and the fan is closed. The loss of pressure detected by the switch results in the closing of an electrical circuit through the switch that activates a visual and audible fan signal alarm. According to the manufacturer's description, the switch is to operate in the range of 0.12 to 10.0 inches of water gauge. MSHA tests showed that the pressure at which the switch activated the alarm was 0.03 inches of water gauge. Attempts to adjust the device to activate the fan signal alarm at pressure higher than 0.03 inches of water were unsuccessful during MSHA's investigation. MSHA conducted these tests in each of the subject mines and the results were the same. Mine ventilating pressures at the mines investigated ranged from 0.70 to 2.18 inches of water gauge with the fan operating.

MSHA concluded that the petitioner's proposed alternative, if granted, would not guarantee the same measure of protection as 30 C.F.R. § 75.312(c). MSHA has determined that the activation pressure of the proposed fan signal device must be closer to the mine ventilating pressure and in accordance with the switch manufacturer's specification.

On the basis of the petition, the factual findings of MSHA's investigations, and the recommendations of MSHA, T.J.S. Mining, Inc. and Penn View Mining, Inc. are denied a modification of the application of 30 C.F.R. § 75.312(c) to the four mines listed above.

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. § 811(c), it is ordered that, T.J.S. Mining, Inc./Penn View Mining, Inc.'s Petition for Modification of the application of 30 C.F.R. § 75.312(c) in the Rossmoyne No. 1, Darmac No. 2, T.J.S. No. 5, and Penn View Mines is hereby:

DENIED.

Any party to this action desiring a hearing on this matter must file in accordance with 30 C.F.R. § 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.

Terry L. Bentley
Acting Deputy Administrator for
Coal Mine Safety and Health