

In the matter of
Twentymile Coal Company
Foidel Creek Mine
I.D. No. 05-03836

Petition for Modification

Docket No. M-2000-097-C

PROPOSED DECISION AND ORDER

On June 7, 2000, a petition was filed seeking a modification of the application of 30 CFR 75.1909(a)(1) to Petitioner's Foidel Creek Mine, located in Routt County, Colorado. The Petitioner alleges that the alternative method outlined in the amended petition would at all times guarantee no less than the same measure of protection afforded by 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 recommendations, this Proposed Decision and Order is issued.

In May 2000, the Petitioner had Southwest Research Institute (SwRI) conduct tests on the Caterpillar 3304 PCT engine, Serial No. 2B-10925. The SwRI report indicated that the test engine met the requirements of 30 CFR Part 7, Subpart E. On September 18, 2001, the Petitioner submitted a report that the other two engines, Serial Nos. 2B-19603 and 4B-23351 were of the same design and construction as the test engine and both engines were in good operating condition.

Finding of Fact and Conclusion of Law

MSHA investigators found that the alternative method proposed by the Petitioner would at all times guarantee no less than the same measure of protection afforded the miners under 30 CFR 75.1909(a)(1).

On the basis of the petition and the findings of MSHA's investigation, Twentymile Coal Company, is granted a modification of the application of 30 CFR 75.1909(a)(1) to its Foidel Creek 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 Twentymile Coal Company's Petition for Modification of the application of 30 CFR 75.1909(a)(1) in the Foidel Creek Mine is hereby:

GRANTED, for three Caterpillar 3304 PCT engines used at the Foidel Creek mine, conditioned with the following terms and conditions:

1. The equipment is limited to the Eimco Model 913 LDH, Engine S.N. 2B-10603, Caterpillar 120G Motor Grader, Engine S.N. 4B-23351, and test engine, S.N. 2B-10925.
2. Each Caterpillar engine shall have a legible metallic label attached specifying the ventilation rate for the engine, the rated power, rated speed, high idle, and maximum altitude before deration.
3. Each engine shall be maintained in accordance with the test specifications used during engine evaluation.
4. Pursuant to 30 CFR 1909(a)(1), all referenced engines shall have an air filter service indicator set in accordance with the engine manufacturer's recommendations.

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.

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