

In the matter of:
Mettiki Coal, LLC
Mettiki Mine
I.D. No. 18-00621

Petition for Modification

Docket No. M-2003-015-C

PROPOSED DECISION AND ORDER

On February 25, 2003, a petition was filed seeking a modification of the application of 30 CFR 75.1325(c) to Petitioner's Mettiki Mine located in Garrett County, Maryland. The Petitioner alleges that the alternative method outlined in the petition will 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, comments and MSHA's investigative report and recommendation, this Proposed Decision and Order was issued.

Finding of Fact and Conclusion of Law

The alternative method proposed by the Petitioner (as amended by the recommendations of MSHA) will at all times guarantee no less than the same measure of protection afforded the miners under 30 CFR 75.1325(c).

On the basis of the petition and the findings of MSHA's investigation, Mettiki Coal, LLC is granted a modification of the application of 30 CFR 75.1325(c) to its Mettiki 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 Mettiki Coal, LLC's Petition for Modification of the application of 30 CFR 75.1325(c) in the Mettiki Mine is hereby:

GRANTED, for blasting on the longwall face when rock is encountered in or above the coal without requiring all persons to go around at least one corner

conditioned upon compliance with the following terms and conditions:

1. Prior to blasting on the longwall face, a qualified person, who meets the requirements of 30 CFR 75.1301, must ensure that all electrical power to the longwall face has been de-energized and that all pre-blasting requirements of 30 CFR Subpart N have been met.
2. Prior to blasting, all persons must leave the blasting area and move to a safe location on the intake side of the blast location. Such locations will be:
 - a) for the qualified person, around a corner on the intake side of the blast location or a minimum of 300 feet on the intake side of the blast; the qualified person must be positioned between shield support legs;
 - b) for all other persons, around a corner on the intake side of the blast location.
3. Prior to blasting, the qualified person must visually determine that persons working on the headgate, on the longwall face and at the tailgate are located in a safe location on the intake side of the blast location.
4. At least one temporary barrier shall be erected between the location of the qualified person and the blasting location to provide additional protection from flyrock.
5. Temporary barriers shall extend from the shield support legs to the panline structure.
6. Temporary barriers shall be constructed of Mylar or an equivalent material that can be attached to the longwall shield and shall be capable of safely stopping any flyrock at that location and distance.
7. Immediately before blasting, the qualified person must give an audible warning signal three (3) times with 15-second intervals between each warning signal.
8. The qualified person must fire the shot between five (5) and ten (10) seconds after the third warning signal is given.

9. The qualified person must sound an audible "all clear" signal after a shot is fired and, after the dust and smoke clears, determine that all after-blast requirements of 30 CFR Subpart N have been met before any other person enters the blast area.
10. All qualified person(s), all person(s) working in the presence of and under the direction of the qualified person, and all persons working on the longwall section must be trained in the terms and conditions of this modification prior to implementing the petition and during new or experienced miner training and during annual retraining.
11. Within 60 days after this Proposed Decision and Order becomes final, the Petitioner shall submit proposed revisions for its approved 30 CFR Part 48 training plan to the Coal Mine Safety and Health District Manager. These proposed revisions shall specify initial and refresher training regarding the terms and conditions stated in the Proposed Decision and Order.

Any party to this section 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.

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
Deputy Administrator for
Coal Mine Safety and Health