

In the matter of
Orchard Coal Company
Orchard Slope Mine
I.D. No. 36-08346

Petition for Modification

Docket No. M-2003-042-C

PROPOSED DECISION AND ORDER

On June 02, 2003, a petition was filed seeking a modification of the application of 30 CFR 75.311(b)(2) and (b)(3) to Petitioner's Orchard Slope Mine, located in Schuylkill County, Pennsylvania. The Petitioner alleges that application of this standard will result in a diminution of safety to the miners and 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 and MSHA's investigative report and recommendation, this Proposed Decision and Order is issued.

Finding of Fact and Conclusion of Law

Application of 30 CFR 75.311(b)(2) and (b)(3) to the subject mine will result in a diminution of safety to the miners and the special terms and conditions set out below will provide for the safety of the miners.

The petitioner requests that electrical circuits entering the underground mine remain energized to the mine's de-watering pumps while the mine ventilation fan is intentionally stopped during idle shifts while no miners are underground.

The petitioner alleges that anthracite mines are small, employing five or less miners, with very low production. There is little or no methane liberation and due to the steep pitch of the coal seam natural ventilation occurs through cracks and breaches to the surface which would dissipate any methane.

The petitioner alleges that continuous operation of the main fan would result in a hazardous condition during colder months due to water freezing in the intake haulage slope resulting in ice accumulations that must be manually removed. By allowing the fan to be intentionally stopped the natural air current will be warmed and prevent freezing.

The mines pumping system typically consists of a submersible pump located below the water level in the intake haulage slope sump and a centrifugal pump located in the intake haulage slope above the active gangway level. The pumps are started and shut off by

a set of electrode switches located in the sump which detect the water level.

On the basis of the petition and the findings of MSHA's investigation Orchard Coal Company is granted a modification of the application of 30 CFR 75.311(b) (2) and (b) (3) to its Orchard Slope 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 Orchard Coal Company's Petition for Modification of the application of 30 CFR 75.311(b) (2) and (b) (3) in the Orchard Slope Mine is hereby:

GRANTED, to permit the electrical circuits entering the underground mine to remain energized to the mine's de-watering pumps while the mine ventilation fan is intentionally stopped during idle shifts while no miners are underground.

1. Power shall only be permitted to remain energized in the intake haulage slope and only those pumps located in the intake haulage slope shall be permitted to remain energized. No persons shall be permitted underground while the ventilation fan is stopped.
2. Prior to starting the ventilation fan and before the required pre-shift examination, the examiner shall deenergize power to the underground mine.
3. The mine fan shall be operated continuously for 30 minutes prior to entering the mine to conduct the pre-shift examination.
4. An examination of the mine pump installations will be completed prior to entering the active gangway working level and continuing the pre-shift examination.
5. An examination of the entire mine will be conducted by a certified person according to the requirements of 30 CFR 75.360 "Preshift Examination" prior to energizing the underground power circuits.

6. Persons will not be permitted to enter the mine until the mine has been determined to be safe and the preshift examination results recorded.
7. Flammable liquids or combustible debris shall not be stored or allowed to accumulate around the pump installations. The pump installations shall be examined for hazardous conditions prior to energizing. The examiner shall certify by initials, date, and the time that the examination was made at this location. The results of this examination shall be kept in a book on the surface.
8. 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 compliance with the Proposed Decision and Order.

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
Deputy Administrator
for Coal Mine Safety and Health