

In the matter of
Mingo Logan Coal Company
Black Bear Preparation Plant
ID No. 46-07985

Petition for Modification

Docket No. M-2004-007-C

PROPOSED DECISION AND ORDER

On January 27, 2004, a petition was filed seeking a modification of the application of 30 CFR 77.214(a) to the Petitioner's Black Bear Preparation Plant, ID No.46-07985, located in Wharncliffe, Mingo County, West Virginia. The Petitioner proposes to utilize coarse coal refuse material to seal and reclaim four mine openings of the abandoned Select Mining Inc's, Mine #5, ID No. 46-08713. The Petitioner alleges that the alternative method outlined in the petition will at all time guarantee no less than the same measure of protection afforded by the standard.

MSHA personnel conducted an investigation of the petition on April 1 and April 20, 2004, 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, MSHA's investigative report and recommendations, this Proposed Decision and Order is issued.

Findings of Fact and Conclusion of Law

The alternative method proposed by the petitioner will at all time guarantee no less than the same measure of protection afforded the miners under 30 CFR 77.214(a).

On the basis of the petition and the findings of MSHA's investigation, Mingo Logan Coal Company, is granted a modification of the application of 30 CFR 77.214(a) to its Black Bear Preparation Plant, ID No. 46-7985. A copy of the petition has been posted on the mine's bulletin board to notify the miners of the proposal for the refuse area.

The alternative method calls for removal of all sloughed overburden in front of the abandoned mine openings, exposing four portals into the Alma-C coal seam, installing a drain pipe, then backfilling and sealing the portals and covering the coal seam with compacted non-combustible inert soil material.

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 Mingo Logan Coal Company's Petition for Modification of the application of 30 CFR 77.214(a), for the Petitioner's Black Bear Preparation Plant, ID No. 46-07985, is hereby:

GRANTED, for the modification of 30 CFR 77.214(a) with the following terms and conditions:

1. All sloughed overburden material shall be excavated and removed for a minimum of 12 feet in front of, and to either side of the mine openings to the abandoned Mine #5.
2. A 5-inch high density polyethylene (HDPE) pipe, extending through the fill area, shall be installed to create a wet seal. The pipe shall be installed for a minimum of 25 feet into the lowest entry of the abandoned mine to prevent water from impounding in the mine voids.
3. The backfill material for the mine openings shall be the most impervious soil available at the site and non-combustible, and shall contain sufficient fines to ensure an airtight seal. The material shall be placed in a maximum of 12-inch lifts and compacted to 90% Proctor dry density and sealed in accordance with 30 CFR 75.1711-2.
4. Inert non-combustible soil material shall be placed and compacted in 12-inch lifts and at a 2:1 slope over the sealed mine openings and any exposed coal seam, and shall extend above any seam for four feet, or four feet above any visible highwall cracks to ensure an airtight seal.
5. Scalp rock or refuse material shall be placed in compacted 12-inch lifts over the sealed abandoned mine openings and reclaimed area, and contoured in 2:1 slopes.

Any party to this action desiring a hearing on this matter must file in accordance with 30 CFR 44.14, as 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 the 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 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