

In the matter of
CONSOL of Kentucky, Inc.
Raccoon E-1 Mine
I.D. No. 15-18709

Petition for Modification

Docket No. M-2004-013-C

PROPOSED DECISION AND ORDER

On March 21, 2004, a petition was filed seeking a modification of the application of 30 CFR 75.1101-8 to Petitioner's Raccoon E-1 Mine, located in Floyd County, Kentucky. 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 and MSHA's investigative report and recommendation, this Proposed Decision and Order is 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 75.1101-8.

The investigation by MSHA noted that the water sprinklers are currently installed 9 feet apart and the maximum distance between sprinklers shall not be more than 8 feet to achieve a reasonable spray pattern. The functional test administered during the investigation demonstrated that the 9 feet spacing of sprinklers is adequate protection for this standard.

On the basis of the petition and the findings of MSHA's investigation, CONSOL of Kentucky Inc. is granted a modification of the application of 30 CFR 75.1101-8 to its Raccoon E-1 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 CONSOL of Kentucky Inc.'s Petition for Modification of the application of 30 CFR 75.1101-8 in the Raccoon E-1 Mine is hereby:

GRANTED, for a single overhead pipe sprinkler system conditioned upon compliance with the following terms and conditions:

1. Each water sprinkler system shall consist of a single overhead pipe system with automatic sprinklers located not more than 9 feet apart so that the water discharge from the sprinklers will cover 50 feet of flame-resistant belt, or 150 feet of non flame-resistant belt, adjacent to the belt drive. In addition, automatic sprinklers shall be located not more than 9 feet apart so that the water discharged from the sprinkler(s) will cover the drive motor(s), entire belt take-up, electrical controls, and gear reducing unit for each belt drive.
2. Where the clearance between the center of the top belt and the roof does not permit the installation of the single overhead pipe system directly over the belt, the sprinklers shall be installed above the maximum elevation of the top belt and shall be oriented so that water discharged from the sprinklers will be applied directly to the top and bottom surface of the top belt and the top surface of the bottom belt.
3. The residual pressure in each sprinkler system shall not be less than 10 psi with any three sprinklers open. The supply of water shall be adequate to provide a constant flow of water for at least 10 minutes with all sprinklers functioning.
4. Each water sprinkler system shall have a strainer with flush-out connection and a manual shut-off valve.
5. Each automatic sprinkler shall be designed to de-energize the electrical power source to all the equipment protected by the system, when the water sprinkler system is activated.

6. Each automatic sprinkler shall be a standard, ½-inch orifice, pendant-type sprinkler with fusible link actuation. Actuation temperature for each automatic sprinkler shall be between 200 degrees Fahrenheit and 230 degrees Fahrenheit.
7. A functional test to ensure proper operation shall be conducted during the installation of each new system and during the subsequent repair or replacement of any critical part thereof. The functional test shall be conducted in accordance with the following:
 - (a) Close the manual shut-off valve.
 - (b) Open the flushout valve.
 - (c) Connect a suitable water pressure gauge to the open side of the flushout valve.
 - (d) Replace the three automatic sprinklers nearest the flushout valve with sprinklers that have been fused (open).
 - (e) Open the manual shut-off valve and read the pressure indicated on the gauge. The water sprinkler system pressure is adequate if the gauge indicates 10 psi or more.
 - (f) Verify proper sprinkler orientation.
 - (g) Verify proper operation of the water flow switch.
 - (h) Restore the system to its operational condition.
8. This Petition for Modification shall not affect the application of 30 CFR 75.1101-7, 75.1101-9, 75.1101-10, 75.1101-11, and 75.1101-12.
9. The initial water sprinkler system installed at the mine shall not be put into operation until after MSHA has inspected the equipment and determines that it is in compliance with all the above terms and condition.
10. 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 this 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 Langton
Deputy Administrator for
Coal Mine Safety and Health