

August 9, 2005

In the matter of:
Alfred Brown Coal Company
7 Ft. Slope Mine
I.D. No. 36-08893

Petition for Modification

Docket No. M-2005-038-C

PROPOSED DECISION AND ORDER

On May 16, 2005, a petition was filed seeking a modification of the application of 30 CFR 75.1100-2(a)(2) to Petitioner's 7 Ft. Slope Mine, located in Schuylkill County, Pennsylvania. 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

MSHA's review of the petition, investigation report, and discussions with mine operators revealed that, because of the low volatile ratio of anthracite coal, anthracite coal dust does not propagate an explosion. Additionally, the ignition temperature of anthracite coal is high, which makes it harder to ignite. Furthermore, conditions in these mines are generally wet. Moreover, the investigation report reveals that electric face equipment is not used in this mine. Therefore, it is determined that the alternative method proposed by the Petitioner will at all times guarantee no less than the same measure of protection afforded the miners under 30 CFR 75.1100-2(a)(2).

On the basis of the petition and the findings of MSHA's investigation, Alfred Brown Coal Company is granted a modification of the application of 30 CFR 75.1100-2(a)(2) to its 7 Ft. 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 Alfred Brown Coal Company's Petition for Modification of the application of 30 CFR 75.1100-2(a)(2) in the 7 Ft. Slope Mine is hereby:

GRANTED, for firefighting equipment in the working section, conditioned upon compliance with the following terms and conditions:

1. Fire extinguisher(s) having at least four times the minimum capacity specified for a portable fire extinguisher in 30 CFR 75.1100-1(e) shall be located no greater than 500 feet from the working face.
2. Fire extinguisher(s) having at least six times the minimum capacity specified for a portable fire extinguisher in 30 CFR 75.1100-1(e) shall be located at the entrance to the gangway at the bottom of the slope.
3. The mine operator shall notify MSHA prior to using any electric face equipment in this mine so that MSHA can re-evaluate this modification.
4. Prior to implementing this alternative method, all persons who work in the affected area shall be instructed immediately in the emergency procedures and all provisions of 30 CFR 75.1502 and 75.383. Persons not normally assigned to work in this area shall be instructed in emergency evacuation procedures and escapeway routes before starting work in this area.
5. 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 plans 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 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 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