

June 6, 2007

In the matter of:
Excel Coal Company
Three S Slope
I.D. No. 36-09309

Petition for Modification

Docket No. M-2006-071-C

PROPOSED DECISION AND ORDER

On August 7, 2006, a petition was filed seeking a modification of the application of 30 CFR 75.1202-1(a) to Petitioner's Three S Slope, located in Northumberland County, Pennsylvania. The standard states, "Mine maps shall be revised and supplemented at intervals of not more than 6 months." Petitioner proposes to increase the required interval of survey from 6 months to annually. 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 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, this Proposed Decision and Order is issued.

Finding of Fact and Conclusion of Law

Excel Coal Company's No. 1 Slope Mine is an extremely small operation producing approximately 50 tons of raw coal per day. This low rate of production represents slow advance rates for development headings and breasts such that no significant safety is lost by the extended interval of updating the surveys and mine maps to graphically portray the mining advance. 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 75.1202-1(a). On the basis of the petition and the findings of MSHA's investigation, Excel Coal Company is granted a modification of the application of 30 CFR 75.1202-1(a) to its Three S Slope.

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 Six M Coal Company's Petition for Modification of the application of 30 CFR 75.1202-1(a) for the No. 1 Slope is hereby:

GRANTED, for annual revisions and supplements of the mine map, conditioned upon compliance with the following terms and conditions:

1. The mine map shall be revised and supplemented based on a survey made or certified by a registered engineer or a registered surveyor at intervals of not more than twelve (12) months. The annual due date shall coincide with that of the ventilation plan/map approval date.
2. The mine map shall also be revised and supplemented on the basis of a survey made or certified by a registered engineer or registered surveyor prior to final retreat mining or from the point of deepest penetration of gangway advance or breast advance if not connected to a surveyed location.
3. 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 include 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.

Melinda Pon
Acting Deputy Administrator for
Coal Mine Safety and Health