

June 6, 2007

In the matter of
T.J.S. Mining, Inc.

Petition for Modification

Rossmoyne No. 1 Mine
I.D. No. 36-09075

T.J.S. No. 5 Mine
I.D. No. 36-09159

T.J.S. No. 6 Mine
I.D. No. 36-09464

Docket No. M-2006-073-C

PROPOSED DECISION AND ORDER

On August 17, 2006, a petition was filed seeking a modification of the application of 30 CFR 75.1100-2(e)(2) to Petitioner's Rossmoyne No. 1 Mine located in Indiana County, Pennsylvania; T.J.S. No. 5 Mine, located in Armstrong County, Pennsylvania; and T.J.S. No. 6 Mine, located in Armstrong County, Pennsylvania. The Petitioner alleges that the alternate 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 reports, this Proposed Decision and Order is issued.

Finding of Fact and Conclusion of Law

The petitioned standard states, "One portable fire extinguisher and 240 pounds of rock dust shall be provided at each temporary electrical installation". Petitioner proposes to provide two (2) portable fire extinguishers or one (1) fire extinguisher having twice the required capacity at each temporary electrical installation in lieu of one (1) fire extinguisher and 240 lbs. of rock dust. The alternate 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 75.1100-2(e)(2).

On the basis of the petition and the findings of MSHA's investigation, T.J.S. Mining, Inc. is granted a modification of the application of 30 CFR 75.1100-2(e)(2) to its Rossmoyne No. 1, T.J.S. No. 5, and T.J.S. No. 6 Mines.

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., § 811(c), it is ordered that T.J.S. Mining, Inc.'s Petition for Modification of the application of 30 CFR 75.1100-2(e)(2) in the Rossmoyne No. 1, T.J.S. No. 5, and T.J.S. No. 6 Mines is hereby:

GRANTED, for the temporary electrical installations provided the Petitioner maintains two (2) portable fire extinguishers having at least the minimum capacity specified for a portable fire extinguisher in 30 CFR 75.1100-1(e) or one (1) portable fire extinguisher with twice the minimum capacity specified in 30 CFR 75.1100-1(e) at each temporary electrical installation.

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