

October 16, 2007

In the matter of:
Chestnut Coal Company
No. 12 Slope
I.D. No. 36-09493

Petition for Modification

Docket No. M-2007-033-C

PROPOSED DECISION AND ORDER

On May 10, 2007, a petition was filed seeking a modification of the application of 30 C.F.R. § 75.1202-1(a) to Petitioner's No. 12 Slope, located in Northumberland County, Pennsylvania. The petitioned standard states,

Temporary notations, revisions, and supplements.
(a) 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

MSHA's investigation verified the petitioner's claim that "daily development is frequently limited to less than six feet of gangway advance with associated up pitch development." This rate of advance averages out to 900 feet of development per year. Since the mine opened, there has been approximately 60 feet of slope development. The investigation also revealed the mine averages 10 tons of production per day using non-mechanized, hand-loading methods of mining.

On the basis of the petition and the findings of MSHA's investigation, Chestnut Coal Company is granted a modification

of the application of 30 C.F.R. § 75.1202-1(a) to its No. 12 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., § 811(c), it is ordered that Chestnut Coal Company's Petition for Modification of the application of 30 C.F.R. § 75.1202-1(a) in the No. 12 Slope mine 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 C.F.R. 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 C.F.R. § 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.

Terry L. Bentley
Acting Deputy Administrator for
Coal Mine Safety and Health

