

In the matter of:
AMFIRE Mining Company, LLC
Ondo Extension Mine
I.D. No. 36-09005

Petition for Modification

Docket No. M-2008-014-C

PROPOSED DECISION AND ORDER

On April 29, 2008, a petition was filed seeking a modification of the application of 30 C.F.R. § 75.500(d) to Petitioner's **Ondo Extension** Mine located in Indiana County, Pennsylvania.

The petitioned standard, 30 C.F.R. § 75.500(d) states, in relevant part,

(d) All other electric face equipment which is taken into or used in by the last open crosscut of any coal mine.....shall be permissible.

Petitioner alleges that application of the standard would result in a diminution of safety to miners. The Petitioner contends that due to the size, complexity, and location of the mining machines, it is nearly impossible and potentially unsafe to move the equipment out by the last open crosscut during breakdowns or repairs in order to use non-permissible testing and diagnostic equipment. The Petitioner contends that the alternate method proposed 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 careful review of the entire record, including the petition and MSHA's investigative report and recommendations, this Proposed Decision and Order is issued.

Finding of Fact and Conclusion of Law

Petitioner sought a modification of the standard to allow the use of low-voltage or battery-powered electronic testing and diagnostic equipment in or in by the last open crosscut. Equipment would include laptop computers, oscilloscopes, vibration machines, cable fault detectors, etc. Petitioner proposed to use such non-permissible equipment under specific conditions and while continuously monitoring for methane.

The UMWA Health and Safety Representative submitted comments on the requested modification. The comments indicated that only approved permissible equipment

should be allowed. Those comments were considered. However, since 1995, MSHA has granted approximately 30 modifications that allow the use of non-permissible electronic testing and diagnostic equipment under controlled conditions. In each case, MSHA determined that complying with the elements listed in the granting terms and conditions provided at least the same measure of protection as the standard.

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 C.F.R. § 75.500(d).

The modification requested in this petition applies only to 30 C.F.R. § 75.500(d) and does not allow the use of the listed non-permissible electronic testing and diagnostic equipment within 150 feet of pillar workings or longwall faces as per 30 C.F.R. § 75.1002 nor does this modification provide for the use of the listed non-permissible electronic testing and diagnostic equipment in the return air outby the last open crosscut as per 30 C.F.R. § 75.507-1.

On the basis of the petition and the findings of MSHA's investigation, AMFIRE Mining Company, LLC is granted a modification of the application of 30 C.F.R. § 75.500(d) to its **Ondo Extension** 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 AMFIRE Mining Company, LLC's Petition for Modification of the application of 30 C.F.R. § 75.500(d) in the **Ondo Extension** Mine is hereby:

GRANTED, for the use of low-voltage or battery-powered non-permissible electronic testing and diagnostic equipment in or inby the last open crosscut, under controlled conditions, for testing and diagnosing the mining equipment, conditioned upon compliance with the following terms and conditions:

1. The use of non-permissible low-voltage or battery powered electronic testing and diagnostic equipment shall be limited to laptop computers; oscilloscopes; vibration analysis machines; cable fault detectors; point temperature probes; infrared temperature devices and recorders; insulation testers (meggers); voltage, current, and power measurement devices and recorders; pressure and flow measurement devices; signal analyzer devices; ultrasonic thickness gauges; electronic component testers; and electronic tachometers. Other testing and

diagnostic equipment may be used if approved in advance by MSHA's District Office.

2. Non-permissible electronic testing and diagnostic equipment shall be used only when equivalent permissible equipment is not available.
3. All electronic testing and diagnostic equipment shall be used only by qualified persons as specified in 30 C.F.R. § 75.153 and in accordance with the manufacturer's recommended safe use procedures. The qualified person must examine the equipment prior to being used to ensure the equipment is being maintained in a safe operating condition. The examination results shall be recorded in the weekly examination of electrical equipment book and shall be made available to Authorized Representatives of the Secretary and the miners at the mine.
4. A qualified person as defined in existing 30 C.F.R. § 75.151 shall continuously monitor for methane immediately before and during the use of non-permissible electronic testing and diagnostic equipment in or inby the last open crosscut.
5. Non-permissible electronic testing and diagnostic equipment shall not be used if methane is detected in concentrations at or above 1.0 percent. When 1.0 percent or more of methane is detected while the non-permissible electronic equipment is being used, the equipment shall be de-energized immediately and the non-permissible electronic equipment withdrawn outby the last open crosscut.
6. All hand-held methane detectors shall be MSHA-approved and maintained in permissible and proper operating condition as defined in existing 30 C.F.R. § 75.320.
7. Except for the time necessary to troubleshoot under actual mining conditions, coal production in the section shall cease. However, coal may remain in the equipment in order to test and diagnose the equipment under "load."
8. Non-permissible electronic testing and diagnostic equipment shall not be used to test equipment when float coal dust has accumulated on previously rockdusted surfaces, accumulated on equipment, and/or when float coal dust is in suspension.
9. Qualified personnel engaged in the use of electronic testing and diagnostic equipment shall be properly trained to recognize the hazards and limitations associated with the use of electronic testing and diagnostic equipment.

10. The petitioner shall include the above terms and conditions in the initial and annual refresher training as required in its approved Part 48 training plans to ensure that miners are aware of the stipulations contained in this petition.

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 the 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 may 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.

Kevin G. Stricklin
Administrator for
Coal Mine Safety and Health

Certificate of Service

I hereby certify that a copy of this proposed decision was served personally or mailed, postage paid, this _____ day of _____, 2008, to:

Mr. Jim Pablic, Safety Director
AMFIRE Mining Company, LLC
One Energy Place
Latrobe, Pennsylvania 15650

Mr. Dennis O' Dell
United Mine Workers of America
8315 Lee Highway
Fairfax, Virginia 22031-2215

Shameka Green
Secretary

cc: Mr. Joe Scaffoni, Director of Deep Mine Safety, Pennsylvania Department of Environmental Protection

bcc: District 2
OSRV
J.Arrington
Case File

MCS:J.Arrington:mb:12/10/2008 using previous decision M-2008-015-C as a model

FILE COPY	
Surname	Date