

In the matter of
Kingston Mining, Inc.
Kingston No. 1 Mine
I.D. No. 46-08625

Petition for Modification

Docket No. M-2010-040-C

PROPOSED DECISION AND ORDER

On November 29, 2010, a petition was filed seeking a modification of the application of 30 C.F.R. § 75.1101-1(b) to Petitioner's Kingston No. 1 Mine, located in Fayette County, West Virginia. The petitioned standard, 30 C.F.R. § 75.1101-1(b) states, in relevant part:

Nozzles attached to the branch lines shall be full cone, corrosion resistant and be provided with blow-off dust covers....

Petitioner proposes to conduct weekly examinations and functional testing of the deluge fire suppression systems as an alternative method of complying with the standard. 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 on April 05, 2011, for the Kingston No. 1 Mine and filed a report of their findings and recommendations with the Chief, Division of Safety for Coal Mine Safety and Health. After a 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

The upper water deluge sprays are mounted to roof bolts over the center of the top conveyor belt and measure 98 inches from the floor. MSHA has determined that climbing a ladder to replace the dust caps after each weekly test poses an unnecessary hazard to the miners. The terms and conditions proposed in the alternative method will, except for possible maintenance issues, eliminate the need for a miner to climb a ladder to replace the blow-off dust caps.

The proposed alternative method, as amended by MSHA, will at all times provide the same measure of protection to the miners as afforded the miners under 30 C.F.R. § 75.1101-1(b).

Contaminated mine water systems and corrosion deposits create restrictions which result in reduction or closure of the water spray orifices on fire suppression systems. In

order to ensure that the fire system is functional and adequate, a method of visual examination coupled with a measuring mechanism of the residual water pressure would be necessary.

On the basis of the petition and the findings of MSHA's investigation, Kingston Mining, Inc. is granted a modification of the application of 30 C.F.R. § 75.1101-1(b) to its Kingston No. 1 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 Kingston Mining, Inc.'s Petition for Modification of the application of 30 C.F.R. § 75.1101-1(b) to its Kingston No. 1 Mine is hereby:

GRANTED, for weekly examination and functional testing of deluge type fire suppression systems installed at conveyor belt drives in lieu of dust covers for nozzles of water deluge fire suppression system conditioned upon compliance with the following terms and conditions:

1. Once every seven (7) days, a person trained in the procedures for testing the deluge-type water spray fire suppression systems utilized at each belt drive shall:
 - (a) Conduct a visual examination of each of the deluge-type water spray fire suppression systems.
 - (b) Conduct a functional test of the deluge-type water spray fire suppression systems by actuating the system and observing its performance.
 - (c) Take residual pressure measurements at the most hydraulically-demanding nozzle to determine whether the system meets the manufacturer's specifications.
 - (d) Record the results of the examination, functional test, and residual pressure measurements in a book maintained on the surface for that purpose. The record shall be made available to authorized representatives of the Secretary and be retained at the mine for one year.
2. Any malfunction or clogged nozzle detected as a result of the weekly examination and functional test shall be corrected immediately.

3. The procedures used to perform the functional test shall be posted at or near each belt drive that utilizes a deluge-type water spray fire suppression system.

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 specify the procedure used to conduct the weekly functional test during initial and refresher training regarding the conditions specified by 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 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.

Charles J. Thomas
Deputy Administrator for
Coal Mine Safety and Health