

In the matter of
Sunset coal company
(formerly Ashland Coal Company)
Orchard Slope
I.D. No. 36-06132

Petitions for Modification

Docket Nos. M-1979-167-C
 M-1993-202-C
 M-1993-203-C
 M-1993-205-C
 M-1993-206-C
 M-1993-207-C

PROPOSED DECISION AND ORDER TO REVOKE

Sunset Coal Company's (formerly Ashland Coal Company) Orchard Slope was granted modifications of the application of 30 CFR 75.1400 (Docket No. M-1979-167-C 30), 75.335(a)(1) (Docket No. M-1993-202-C), 75.360(b)(5) (Docket No. M-1993-203-C), 75.1100-2(a)(2) (Docket No. M-1993-205-C), 75.1200(d) and (i) (Docket No. M-1993-206-C), and 75.1202-1(a) (Docket No. M-1993-207-C).

The modification for 30 CFR 75.1400 under Docket No. M-1979-167-C was issued July 18, 1980, and finalized August 18, 1980. The modification for 30 CFR 75.335(a)(1) under Docket No. M-1993-202-C was issued April 28, 1995, and finalized May 28, 1995. The modification for 30 CFR 75.360(b)(5) under Docket No. M-1993-203-C was issued December 18, 1995 and finalized February 15, 1996.

The modification for 30 CFR 75.1100-2(a)(2) under Docket No. M-1993-205-C was issued February 13, 1996, and finalized March 14, 1996. The modification for 30 CFR 75.1200(d) and (i) under Docket No. M-1993-206-C was issued October 18, 1995, and finalized November 17, 1995. The modification for 30 CFR 75.1202-1(a) under Docket No. M-1993-207-C was issued July 19, 1995, and finalized August 18, 1995.

MSHA records indicate that underground workings of the mine were permanently abandoned and the surface openings to the mine sealed October 31, 2000.

Finding of Fact and Conclusion of Law

MSHA has determined that the mining conditions have changed and that the modification is no longer necessary because the underground workings of the Orchard Slope have been permanently abandoned and the surface openings sealed. Therefore, modifications of 30 CFR 75.1400 (Docket No. M-1979-167-C 30), 75.335(a)(1) (Docket No. M-1993-202-C), 75.360(b)(5) (Docket No. M-1993-203-C), 75.1100-2(a)(2) (Docket No. M-1993-205-C), 75.1200(d) and (i) (Docket No. M-1993-206-C), and 75.1202-1(a)

(Docket No. M-1993-207-C) are no longer needed at the Orchard 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 Health Act of 1977, 30 U.S.C. 811(c), it is ordered that Sunset Coal Company's modifications of 30 CFR 75.1400 (Docket No. M-1979-167-C 30), 75.335(a)(1) (Docket No. M-1993-202-C), 75.360(b)(5) (Docket No. M-1993-203-C), 75.1100-2(a)(2) (Docket No. M-1993-205-C), 75.1200(d) and (i) (Docket No. M-1993-206-C), and 75.1202-1(a) (Docket No. M-1993-207-C) as they apply to the Orchard Slope are hereby:

REVOKED.

Pursuant to 30 CFR 44.52, revocations of the granted modifications will become final 30 days after service of this Proposed Decision and Order to Revoke, unless a hearing is requested on the 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 the 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 Order to Revoke will become final.

Terry L. Bentley
Chief, Division of Safety
Coal Mine Safety and Health