

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

Petition for Modification

Docket No. M-2008-042-C

PROPOSED DECISION AND ORDER

On September 02, 2008, a petition was filed seeking a modification of the application of 30 C.F.R. § 75.1101-1(b) to Petitioner's Ondo Extension Mine, located in Indiana County, Pennsylvania. 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 November 25, 2008 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 report and recommendations, this Proposed Decision and Order is issued.

Finding of Fact and Conclusion of Law

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).

The UMWA Health and Safety Representative submitted comments on the requested modification. The comments indicated that the petition does not provide the same measure of protection as does the existing standard. Those comments were considered. However, since 1975, MSHA has granted approximately 16 modifications of 75.1100-1(b) at 29 mines to allow the use of water spray nozzles without dust covers on deluge-type water spray systems for belt conveyors. 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 increased frequency of functional testing from an annual test to a weekly test was considered an adequate increase in safety over requiring dust covers on the deluge water spray nozzles.

MSHA has included in the granting terms and conditions a requirement for the mine operator to make a record of any malfunction or clogged water spray. This addition was in response to recommendations by the petition investigator.

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. § 75.1101-1(b) 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., sec. 811(c), it is ordered that AMFIRE Mining Company, LLC's Petition for Modification of the application of 30 C.F.R. § 75.1101-1(b) to the Ondo Extension 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 on water deluge fire suppression systems conditioned upon compliance with the following terms and conditions:

1. Once every 7 days, a person trained in the testing procedures specific to the water deluge type fire suppression systems utilized at each belt drive shall:
 - a. Conduct a visual examination of each of the water deluge type fire suppression systems.
 - b. Conduct a function test of the water deluge type fire suppression systems by actuating the system and observing its performance.
 - c. Record the results of the examination and functional test and record any malfunction or clogged nozzle detected in a book maintained on the surface for that purpose. The record shall be made available to the authorized representative of the Secretary and retained at the mine for one year.

2. Any malfunction or clogged nozzle detected as a result of the weekly examination or functional test shall be corrected immediately.
3. The procedure used to perform the functional test shall be posted at or near each belt drive that utilizes a water deluge fire suppression system.
4. 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 and 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.

Kevin G. Stricklin
Administrator for
Coal Mine Safety and Health