

In the matter of
Process Energy Mining Co.
Mine No. 1
I.D. No. 15-19097

Petition for Modification

Docket No. M-2009-019-C

PROPOSED DECISION AND ORDER

On May 11, 2009 a petition was filed seeking a modification of the application of 30 C.F.R. § 75.380(d)(3) to Sidney Coal Co., Inc. d/b/a Process Energy Company's (Process Energy) Mine No. 1, located in Pike County, Kentucky. The Petitioner alleges that the proposed alternate method will at all times provide the same measure of protection as the standard.

The standard reads,

- (d) Each escapeway shall be –
 - (3) Maintained to at least a height of 5 feet from the mine floor to the mine roof, excluding the thickness of any roof support, except that the escapeways shall be maintained to at least the height of the coalbed, excluding the thickness of any roof support, where the coalbed is less than 5 feet. In areas of mines developed before November 16, 1992, where escapeways pass over or under overcasts or undercasts, the height may be less than 5 feet provided that sufficient height is maintained to enable miners, including disabled persons, to escape quickly in an emergency. When there is a need to determine whether sufficient height is provided, MSHA may require a stretcher test where 4 persons carry a miner through the area in question on a stretcher....

The petitioner proposes an alternate method with a minimum 36-inch traveling height above the overcast in the primary escapeway. In addition to a travelway for miners to move across the overcast, the petitioner proposes a wheeled dolly, mounted on a permanent installed track on top of the overcast that is suitable to carry a stretcher with a disabled miner. The travelway ultimately would lead to a mechanically operated escape hoist in an existing return air shaft.

On August 10, 2009, 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.

Findings of Fact and Conclusion of Law

The petitioned area, which is in a belt and track entry, was mined in March 2008, with an entry width of 24 feet and a height of 8 feet. During the mining process, supplemental roof support was installed to adequately support the roof and protect miners passing through this area on a daily basis. During this initial development, the petitioner installed 72-inch torque-tension roof bolts on 48-inch centers, truss bolts placed on 30-inch centers, four 12-foot cable bolts every 8 feet, and 4-inch by 4-inch wire mesh held in place by 48-inch fully grouted resin bolts.

During this initial development, there was no need for an overcast in the petitioned area. However, MSHA later determined that the petitioner's 1-man escape capsule was not of sufficient size to accommodate the number of miners working underground to evacuate quickly in the event of an emergency. The petitioner then re-routed the primary escapeway from the 1-man escape capsule, located in another area of the mine, to the larger exhaust ventilation shaft. The overcast was installed as a result of this move to provide for intake air in the re-routed primary escapeway. The overcast connects the existing primary escapeway to the new escapeway partition, which leads to the larger escape capsule located at the ventilation shaft.

The overcast is located in the third crosscut of the slope entry. This overcast crosses over the existing 72-inch coal conveyor belt and the track, which consists of 42-inch gauge, 85-pound steel rail embedded in 12-18 inches of concrete poured on the floor. The overcast could not be constructed any lower due to the clearance needed underneath it for the conveyor belt and the travel of rail-mounted mining equipment.

The standard requires escapeways to be maintained to at least the height of the coalbed, excluding the height of any roof support. The height of the coalbed when measured during the investigation was determined to be 51½ inches. The height above the overcast was measured at 46 inches, which is a difference of 5½ inches needed to comply with the standard. To gain the needed clearance from the top of the overcast to the roof to comply with the standard, the roof and the installed roof support would have to be removed which could cause roof control issues.

As an alternate method, the Petitioner proposes the use of a travelway over the overcast that includes a wheeled dolly, mounted on a permanently installed track on top of the overcast that is suitable to carry a stretcher with a disabled miner. The track covers the entire 24-foot distance of the overcast, and includes all areas of reduced traveling

height. The Petitioner has installed stairs to provide access to the top of the overcast from both sides. The steps are wide enough to allow four persons carrying a stretcher to ascend to the top of the overcast and easily place the stretcher on the wheeled dolly. There is sufficient room for non-disabled miners to ascend and easily travel across the top of the overcast. With these modifications to allow for travel across the top of the overcast, the 46-inch height above the overcast is sufficient to allow miners, including disabled persons, to escape quickly in an emergency.

The alternative 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. § 75.380(d)(3).

On the basis of the petition and the findings of MSHA's investigation, Process Energy Mining Co. is granted a modification of the application of 30 C.F.R. § 75.380 (d)(3) to its Mine No. 1.

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 Process Energy Mining Co.'s Petition for Modification of the application of 30 C.F.R. § 75.380(d)(3) in Mine No. 1 is hereby:

GRANTED, to reduce the traveling height to 46 inches above the overcast in the primary escapeway, conditioned upon compliance with the following terms and conditions:

1. A wheeled dolly shall be mounted on a permanently installed track on top of the overcast and shall be maintained in an operable condition at all times to carry a stretcher with a disabled miner.
2. The wheeled dolly and track shall be visually checked each week during the weekly examination of the primary escapeway. This examination will be recorded in the weekly examination record.
3. Once each month the wheeled dolly shall be serviced and checked for ease of movement, making one trip to the end of the overcast and back. This examination shall be recorded in the weekly examination book.

4. All miners affected by the change in the primary escapeway shall be required to travel the new route, including traveling over the new overcast to the escapeway hoist, prior to the Decision and Order becoming final.

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 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
Acting Deputy Administrator for
Coal Mine Safety and Health