

In the matter of
Paramount Coal Company Virginia, LLC
VICC #3
ID No. 44-06853

Petition for Modification

VICC #10 Mine
ID No. 44-07055

Docket No. M-2004-003-C

PROPOSED DECISION AND ORDER

On January 15, 2004, a petition was filed seeking a modification of the application of 30 CFR 77.214(a) to the Petitioner's VICC #3 and #10 Mines, ID Nos. 44-06853 and 44-7055, located on Meade Creek off Alt. State Route 58, Virginia City, Wise County, Virginia. The Petitioner alleges that the alternative method outlined in the petition will at all time 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 a careful review of the entire record, including the petition, MSHA's investigative report and recommendations, this Proposed Decision and Order is issued.

Findings of Fact and Conclusion of Law

The alternative method proposed by the petitioner will at all time guarantee no less than the same measure of protection afforded the miners under 30 CFR 77.214(a).

The Petitioner proposes to use the existing abandoned VICC #3 mine pit, located on Russell Creek off State Route 655 in Virginia City, Wise County, Virginia, for disposing scalp rock from the VICC #3 and VICC #10 mines, and reclaim the highwall above the abandoned VICC #8 portals. Disposal of the scalp rock will necessitate the sealing of the three mine openings.

On the basis of the petition and the findings of MSHA's investigation, Paramount Coal Company Virginia, LLC, is granted a modification of the application of 30 CFR 77.214(a) to its VICC #3 and VICC #10 Mine, ID No.s 44-066853 and 44-07055. A copy of the petition has been posted on the mine's bulletin board to notify the miners of the proposal for the refuse area.

The alternative method calls for removing all sloughed overburden in front of the abandoned VICC #8 mine, exposing the Jawbone coal seam and three portals, backfilling the three portals and sealing and covering the coal seam with compacted inert soil material.

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 Paramount Coal Company Virginia, LLC's Petition for Modification of the application of 30 CFR 77.214(a), for the Petitioner's VICC #3 and VICC #10 Mines, ID No.s 44-06853 and 44-07055, is hereby:

GRANTED, for the modification of 30 CFR 77.214(a) with the following terms and conditions:

1. All topsoil and organic soil material shall be excavated and removed for a minimum of 12 feet in front of, and to either side of the three drift openings to the abandoned VICC #8 mine.
2. The exposed portals into the Jawbone seam shall be sealed in accordance with 30 CFR 75.1711-2 for a distance of at least 25 feet.
3. The backfill material shall be inert non-combustible and impervious soils that contain sufficient fines to ensure an airtight seal. The backfill soil material shall be placed in maximum of 12-inch lifts, and compacted to 90% Proctor dry density.
4. Inert non-combustible soil material shall be placed and compacted in 12-inch lifts and at a 2:1 slope over the sealed mine openings and the exposed coal seam, and shall extend above the seam for four feet, or four feet above any visible highwall cracks to act as an impervious barrier.
5. All other exposed coal seams in the area of the abandoned mine shall also be covered and sealed with impervious, non-combustible soil material in 12-inch compacted lifts and backfilled to a minimum of four feet above the top of the seam.

Any party to this action desiring a hearing on this matter must file in accordance with 30 CFR 44.14, as 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 the 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 will become final and must be posted by the operator on the mine bulletin board at the mine.

John F. Langton
Deputy Administrator
for Coal Mine Safety and Health