

In the matter of:
Midland Trail Energy, LLC
Blue Creek No. 1 Mine
I.D. No. 46-09297 and
Blue Creek No. 2 Mine
I.D. No. 46-09296

Petition for Modification

Docket No. M-2008-056-C

PROPOSED DECISION AND ORDER

On December 22, 2008, Midland Trail Energy, LLC filed a petition seeking a modification of the application of 30 C.F.R. § 75.900 to Petitioner's Blue Creek No. 1 and Blue Creek No. 2 Mines located in Kanawha County, West Virginia. 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 investigators conducted an investigation relevant to the merits of the petition and filed reports 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.

Finding of Fact and Conclusion of Law

The petitioned standard, 30 C.F.R. § 75.900 states

Low- and medium-voltage power circuits serving three-phase alternating current equipment shall be protected by suitable circuit breakers of adequate interrupting capacity which are properly tested and maintained as prescribed by the Secretary. Such breakers shall be equipped with devices to provide protection against undervoltage, grounded phase, short circuit, and overcurrent.

Petitioner proposes to use a contactor in series with the circuit breaker in lieu of a circuit breaker alone. The circuit breaker would provide short circuit protection and the contactor would be equipped to provide undervoltage, grounded phase, and overcurrent protection and other protective functions normally provided by the circuit breaker.

The alternative method proposed by 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. § 75.900. On the basis of the petition and the findings of MSHA's investigation, Midland Trail Energy, LLC is granted a modification of the application of 30 C.F.R. § 75.900 to its Blue Creek No. 1 and Blue Creek No. 2 Mines.

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 Midland Trail Energy, LLC's Petition for Modification of the application of 30 C.F.R. § 75.900 in the Blue Creek No. 1 and Blue Creek No. 2 Mines, is hereby:

GRANTED, to allow the use of contactors, in series with circuit breakers, to provide undervoltage and ground fault protection for three-phase alternating current low-voltage power circuits conditioned upon compliance with the following special terms and conditions:

1. The nominal voltage of the power circuit(s) shall not exceed 995 volts.
2. The nominal voltage of the control circuit(s) shall not exceed 120 volts.
3. The vacuum contactor shall be rated for the maximum voltage of the circuit being protected and the continuous full load current of the utilization equipment.
4. Vacuum contactors shall be located in the same enclosure as the circuit breaker.
5. Vacuum contactors with associated protective relays shall provide undervoltage protection for low- and medium-voltage circuits serving three-phase alternating current equipment.
6. Each circuit breaker installed in conjunction with a contactor shall be equipped with devices to provide short-circuit protection for each piece of equipment.
7. When a contactor trips on a ground fault condition or when a ground-check monitor trips, it shall not automatically reset and must require manual reset. Undervoltage circuits must be wired so that contactors can

be closed remotely only when undervoltage or loss of voltage condition no longer exists. All other conditions that cause the contactor to open shall require manual reset at the contactor.

8. The fail-safe ground check circuit shall cause the contactor to open when either the ground or pilot wire is broken.
9. Circuits providing power to portable or mobile equipment shall not be designed to be capable of being remotely started or remotely closed.
10. A monthly examination shall be conducted on each circuit to assure proper operation of the contactor. The monthly examination shall include activating the undervoltage, grounded-phase, and ground-monitor trip devices. The results of the contactor tests shall be recorded with the required circuit breakers monthly tests.
11. Prior to each start-up, an audible alarm at each affected vacuum contactor or affected area shall be activated for at least 15 seconds.
12. The Petitioner's alternative method shall not be implemented until all qualified persons who perform work on the equipment and circuits have received training in safe maintenance procedures and in the terms and conditions of the Proposed Decision and Order.
13. Within 60 days after this Petition for Modification is granted, the Petitioner shall submit proposed revisions for its approved 30 C.F.R. Part 48 training plan to the Coal Mine Safety and Health District Manager for the area in which the mine is located. These proposed revisions shall specify task training for all miners who are assigned to work in the area. The training shall include the following elements:
 - (a) The purpose of the pre-start alarm systems and vacuum contactor systems;
 - (b) The potential hazards of working on or near belt conveyors and belt conveyor drives; and
 - (c) The requirements of 30 C.F.R. § 75.1725(c) and (d).

The procedures of 30 C.F.R. § 48.3 for approval of proposed revisions to already approved training plans shall apply.

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