

In the matter of
Excel Mining LLC
Mine No 3
I.D. No. 15-08079

Petition for Modification

Docket No. M-2009-008-C

PROPOSED DECISION AND ORDER

On April 7, 2009 a petition was filed seeking a modification of the application of 30 C.F.R. § 75.503 (30 C.F.R. § 18.35) to Petitioner's Mine No 3 located in Pike County, Kentucky. The petition named the mine operator as M.C. Mining, LLC, but MSHA records indicate that Mine I.D. 15-08079 has been operated by Excel Mining LLC since October 30, 2000. This proposed decision and order is therefore issued to Excel Mining LLC. The Petitioner alleges that the alternative method proposed in the petition will at all times guarantee no less than the same measure of protection afforded by the standard.

On June 3, 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.

Finding of Fact and Conclusion of Law

Petitioner proposed an alternative method of compliance with the standard in order to increase the maximum length of trailing cables to 1,597 feet to supply three-phase 575-volt power to permissible pumps in the mine. 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. § 75.503 (30 C.F.R. § 18.35).

On the basis of the petition and the findings of MSHA's investigation, Excel Mining, LLC is granted a modification of the application of 30 C.F.R. § 75.503 (30 C.F.R. § 18.35) to its Mine No. 3.

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 Excel Mining, LLC's Petition for Modification of the application of 30 C.F.R. § 75.503 (30 C.F.R. 18.35) for trailing cables used in Mine No. 3 is hereby:

GRANTED, for the trailing cables supplying three-phase 575-volt power to permissible pumps used in the mine conditioned upon compliance with the following terms and conditions:

1. The maximum length of the trailing cables supplying power to the three-phase 575-volt permissible pumps shall be 1,597 feet.
2. The 575-volt permissible pump trailing cables shall not be smaller than No. 6 AWG.
3. All circuit breakers used to protect No. 6 A.W.G. trailing cables exceeding 500 feet in length shall have instantaneous trip units calibrated to trip at 150 amperes. The trip setting of these circuit breakers shall be sealed or locked so that the setting cannot be changed, and these circuit breakers shall have permanent, legible labels. Each label shall identify the circuit breaker as being suitable for protecting No. 6 A.W.G. cables. The label shall be maintained legible.
4. Replacement instantaneous trip units used to protect No. 6 A.W.G. trailing cables shall be calibrated to trip at 150 amperes and this setting shall be sealed or locked.
5. All components that provide short-circuit protection shall have a sufficient interruption rating in accordance with the maximum calculated fault currents available.
6. Short-circuit current settings must not exceed the setting specified in the approval documentation or 70% of the minimum available current, whichever is less.
7. Weekly examinations by persons designated by the mine operator shall be made to visually examine the trailing cables to ensure that the cables are in safe operating condition. The instantaneous settings of the specially calibrated breakers shall also be visually examined to ensure that the seals or locks have not been removed and that they do not exceed the settings stipulated in item 3.

8. Any trailing cable that is not in safe operating condition shall be removed from service immediately and repaired or replaced.
9. Each splice or repair in the trailing cables shall be made in a workmanlike manner and in accordance with the instructions of the manufacturer of the splice or repair materials. The splice or repair shall comply with 30 C.F.R. §§ 75.603 and 75.604.
10. Permanent warning labels shall be installed and maintained on the cover(s) of the power center or distribution box identifying the location of each sealed short-circuit protective device. These labels shall warn miners not to change or alter these sealed short-circuit settings.
11. The Petitioner's alternate method shall not be implemented until miners who have been designated to examine the integrity of seals or locks verify the short-circuit settings and proper procedures for examining trailing cables for defects and damage and have received the elements of training specified herein.
12. Within 60 days after this Proposed Decision and Order becomes final, 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. The training shall include the following elements:
 - (a) Training in the mining methods and operating procedures that will protect the trailing cables against damage;
 - (b) Training in proper procedures for examining the trailing cables to ensure that they are in safe condition;
 - (c) Training in the hazards of setting the short circuit interrupting device(s) too high to adequately protect the trailing cables; and
 - (d) Training in how to verify that the circuit interrupting device(s) protecting the trailing cable(s) are properly set and maintained.

The procedures as specified in 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