

In the matter of
Eastern Associated Coal Corporation
Harris No. 1 Mine
I.D. 46-01271

Petition for Modification

Docket No. M-2003-030-C

PROPOSED DECISION AND ORDER

On April 28, 2003, a petition was filed seeking a modification of the application of 30 CFR 75.503 to Petitioner's Big Mountain No. 16 Mine located in Boone County, West Virginia. The Petitioner alleges that application of the provision of 30 CFR 18.44(c) will result in a diminution of safety to the miners.

Finding of Fact and Conclusion of Law

The petitioned standard requires mine operators to maintain in permissible condition all electric face equipment required to be permissible. The portion of the regulation that is being petitioned, 30 CFR 18.44(c), requires that on battery-powered equipment, the exposed portion of the cable from the battery box to the explosion-proof enclosure housing the short-circuit protection device is not to exceed 36 inches in length.

Eastern Associated Coal Corp. is proposing to use a 48-inch cable in lieu of the 36-inch required by the standard. The petitioner alleges that the 36-inch maximum length creates a diminution of safety to miners when it is necessary to change batteries. MSHA contacted the Stamler Corporation and was advised that the subject battery assemblies could be outfitted with a circuit breaker enclosure mounted on the assembly. Stamler also advised MSHA that it designs batteries with a circuit-breaker enclosure mounted on the battery tray. The petitioner has this option and could use it to avoid the hazards associated with the procedures it currently uses for changing the batteries. Further, the additional 12 inches of cable proposed by the petitioner could create greater hazard because the 48-inch cable would not be protected against short-circuit. After a careful review of the entire record and other information received from Stamler, this Proposed Decision and Order is issued.

Therefore, pursuant to the authority delegated by the Secretary of Labor to the Administrator for Coal Mine Safety and Health, Pine Ridge Coal Company's Petition for Modification of 30 CFR 75.503 is hereby denied.

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 Eastern Associated Coal Corporation's Petition for Modification of the application of 30 CFR 75.503 in the Big Mountain No. 16 Mine is hereby:

DENIED.

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 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 Decision and 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