

In the matter of:  
Brooks Run Mining Company, LLC  
Mine No. 3  
I.D. No. 46-06043

Petition for Modification  
  
Docket No. M-2004-040-C

PROPOSED ORDER OF DISMISSAL

On September 7, 2004, Brooks Run Mining Company, LLC filed a petition pursuant to 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act), 30 U.S.C. Sec. 811(c), and 30 CFR 44 et seq., for the modification of the application of 30 CFR 75.1711, to its Mine No. 3 located in Webster County, West Virginia. The Petitioner alleged that the alternative method proposed in the petition would at all times guarantee no less than the same measure of protection afforded by the standard.

On October 28, 2004, the petitioner requested that the petition for modification be withdrawn.

Therefore, pursuant to the authority delegated by the Secretary of Labor to the Administrator for Coal Mine Safety and Health, Brooks Run Mining Company, LLC's Petition for Modification of the application of 30 CFR 75.1711 to its Mine No. 3 is hereby:

DISMISSED.

Any party to this action desiring a hearing on this matter must file in accordance with 30 CFR 44 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 Order of Dismissal will become final.

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Terry L. Bentley  
Chief, Safety Division  
Coal Mine Safety and Health