

May 4, 2005

In the matter of:
Snyder Coal Company
N & L Slope Mine
I.D. No. 36-02203

Petition for Modification

Docket No. M-2005-007-C

PROPOSED ORDER OF DISMISSAL

On February 10, 2005, Snyder Coal Company 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 77.403(a) to its N & L Slope Mine, located in Northumberland County, Pennsylvania. 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.

The petitioner requested the modification be granted allowing the continued use of a Case front-end loader, Model W26B, Serial No. 9107513, at the small, family-run mine without the required roll over protective structure (ROPS). The petitioner's proposed alternative method was to limit the use to small, flat loading areas and a short access ramp. Prior to the petition being submitted MSHA had issued a citation, which was terminated when the front-end loader was removed from the mine loadout and from service anywhere at the mine.

MSHA determined that the proposed alternative method of using the front-end loader without the required roll over protective structure does not provide the same measure of protection afforded by the standard.

On April 25, 2005, the petitioner notified MSHA that the petition for modification was being withdrawn because a certified ROPS for the Case Model Number W26B had been purchased and the modification was no longer needed.

Therefore, pursuant to the authority delegated by the Secretary of Labor to the Administrator for Coal Mine Safety and Health, Snyder Coal Company's Petition for Modification of 30 CFR 77.403(a) at its N & L Slope Mine 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.

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