

In the matter of
Twentymile Coal Company
Foidel Creek Mine
I.D. No. 05-03836

Petition for Modification

Docket No. M-2006-003-C

PROPOSED ORDER OF DISMISSAL

On January 4, 2006, Twentymile 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. § 811(c), and 30 C.F.R. § 44 et seq., for the modification of the application of 30 C.F.R. § 75.1002(a), a mandatory safety standard.

The petitioned sought a modification of 30 CFR 75.1002(a), which requires:

- (a) Electrical equipment must be permissible and maintained in a permissible condition when such equipment is located within 150 feet of pillar workings or longwall faces.

The petitioner sought a modification to use battery-powered, non-permissible handheld computers in and inby the last open crosscut, including the return aircourses.

On January 8, 2006, MSHA investigated the operator's request to modify § 75.1002(a) (Docket M-2006-002-C). The investigator determined that MSHA's decision and order for Twentymile Coal Company's proposed modification of 30 CFR 75.500(d) (Docket No. M-2006-002-C) would address the use of non-permissible equipment at the longwall face and areas within 150 feet of pillar workings, and that the requested modification of 30 CFR 75.1002(a) is not needed and it should be dismissed. On April 6, 2006, MSHA received a letter from the petitioner requesting withdrawal of the petition. The petition has been withdrawn and should be dismissed.

Therefore, pursuant to the authority delegated by the Secretary of Labor to the Administrator for Coal Mine Safety and Health, Twentymile Coal Company's Petition for Modification of 30 CFR 75.1002(a) at the Foidel Creek 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 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 Order of Dismissal will become final

Stephen J. Gigliotti
Chief, Safety Division for
Coal Mine Safety and Health