

In the matter of
Consol Pennsylvania Coal Company
Bailey Mine
I.D. No. 36-07230

Petition for Modification

Docket No. M-2006-069-C

PROPOSED ORDER OF DISMISSAL

On August 8, 2006, Consol Pennsylvania Coal Company (CONSOL) 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. § 75.364(b)(2) to its Bailey Mine, located in Greene 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 petitioned standard requires that

(b) Hazardous conditions. At least every 7 days, an examination for hazardous conditions at the following locations shall be made by a certified person designated by the operator:...(2) In at least one entry of each return air course, in its entirety, so that the entire air course is traveled.

Due to deteriorating roof conditions, Petitioner proposed to establish 2 checkpoints in the abandoned 8I longwall setup entry to evaluate and confirm adequate ventilation in the area in lieu of examining the entry in its entirety.

A letter from the petitioner to MSHA's District Manager dated June 8, 2007, stated that the petitioner wished to withdraw the petition for modification of 30 C.F.R. § 75.364(b)(2). As a result, the petition is not needed and should be dismissed.

Therefore, pursuant to the authority delegated by the Secretary of Labor to the Administrator for Coal Mine Safety and Health, CONSOL's Petition for Modification of 30 C.F.R. § 75.364(b)(2) to its Bailey Mine is hereby:

DISMISSED.

Any party to this action desiring a hearing on this matter must file in accordance with 30 C.F.R. § 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.

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