

In the matter of
Little Buck Coal Company
Bottom Split Slope
I.D. 36-09491

Petition for Modification

Docket No. M-2007-019-C

PROPOSED ORDER OF DISMISSAL

On March 28, 2007, Little Buck Coal Company filed a petition under Section 101(c) of the Federal Mine Safety and Health Act of 1977, 30 U.S.C. § 811(c) and 30 C.F.R. pt. 44. The Petitioner sought a modification of the application of 30 C.F.R. § 75.335 at its Bottom Split Slope mine, located in Schuylkill County, Pennsylvania.

Since this Petition was submitted, MSHA has amended 30 C.F.R. § 75.335. MSHA issued an Emergency Temporary Standard (ETS) on May 22, 2007. On June 1, 2007, the Administrator for Coal Mine Safety and Health issued a memorandum to all mine operators. The memorandum indicated that the ETS would be effective immediately and would be enforced at all underground mines, including anthracite mines. The memorandum further stated that all mines with petitions for modification of 30 C.F.R. 75.335 or 75.335(a)(1) must comply with the applicable sections of the ETS. MSHA promulgated a final rule on April 18, 2008. Because of the amendments to 30 C.F.R. § 75.335, this petition does not address the requirements in the current standard and should be dismissed.

Therefore, pursuant to the authority delegated by the Secretary of Labor to the Administrator for Coal Mine Safety and Health, Little Buck Mining Company's Petition for Modification of 30 C.F.R. § 75.335 at Bottom Split Slope mine is hereby:

DISMISSED

Any party to this action desiring a hearing on this matter must file in accordance with 30 C.F.R. § 44.14, 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 must 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, Division of Safety for
Coal Mine Safety and Health