

In the matter of:
Chestnut Coal Company
No. 12 Slope
I.D. No. 36-09493

Petition for Modification

Docket No. M-2007-027-C

PROPOSED ORDER OF DISMISSAL

On May 10, 2007, a petition was filed seeking a modification of the application of 30 C.F.R. § 49.2(b) to Petitioner's No. 12 Slope mine located in Northumberland County, Pennsylvania. The petition requests a reduction in the number of mine rescue team members from 5 with one alternate for each team to 3 members per team with one alternate for both teams, due to the physical characteristics of the anthracite mining practiced in the petitioner's non-mechanized mine. The Petitioner alleges that the alternate method outlined in the petition will at all times guarantee no less than the same measure of protection afforded by the standard.

Mine Safety and Health Administration (MSHA) has promulgated a revised standard for mine rescue teams for underground coal mines (see Federal Register: February 8, 2008, Volume 73, Number 27, Rules and Regulations, pages 7635-7655). The revised final rule, 30 C.F.R. Parts 49 and 75: Mine Rescue Teams; Final Rule, took effect on February 8, 2008; it added section 49.12(b), which superseded all granted modifications of 30 C.F.R. § 49.2(b), a modification frequently requested and routinely granted to anthracite mines.

30 C.F.R. § 49.12(b) states,

(b) Each mine rescue team shall consist of five members and one alternate who are fully qualified, trained, and equipped for providing emergency mine rescue service. Mine rescue teams for anthracite coal mines, which have no electrical equipment at the face or working section, shall consist of at least three members per team and one alternate that may be shared between both teams.

On the basis of the aforementioned final rule, the submission for a modification of the application of 30 C.F.R. § 49.2(b) is not required because the proposed alternative method for the No. 12 Slope complies with the revised standard. Consequently, the requested modification is not needed and should be dismissed.

ORDER

Therefore, pursuant to the authority delegated by the Secretary of Labor to the Administrator for Coal Mine Safety and Health, Chestnut Coal Company's Petition for Modification of 30 C.F.R. § 49.2(b) to its No. 12 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 the 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 the 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 Decision and Order will become final and must be posted by the operator on the mine bulletin board at the mine.

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