

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

Petition for Modification  
  
Docket No. M-2007-028-C

PROPOSED ORDER OF DISMISSAL

On May 10, 2007, a petition was filed seeking a modification of the application of 30 C.F.R. § 49.6(a)(1) and (5) to Petitioner's No. 12 Slope mine located in Northumberland County, Pennsylvania. The petition requests the quantity of apparatus kept at the mine rescue station be reduced in order to be consistent with the reduced number of mine rescue team members from 5 members per team with one alternate for each team to 3 members per team with one alternate serving both teams. The request to reduce the team size due to the physical characteristics of the anthracite mining practiced in the petitioner's non-mechanized mine was requested under a separate petition for modification (Docket No. M-2007-027-C). 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.

On September 15, 2008, the Mine Safety and Health Administration (MSHA) promulgated a revised standard for mine rescue teams for underground coal mines (73 FR 53116). The revised final rule, which became effective on November 14, 2008, added section 49.16, consisting of requirements for underground anthracite coal mines with no electrical equipment at the working face and producing less than 300 tons of coal per shift.

30 C.F.R. § 49.12 provides:

(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.

30 C.F.R. § 49.16 provides:

(a) ...Mine rescue stations serving underground anthracite coal mines, which have no electrical equipment at the face or working section, shall have at least the amount of equipment appropriate for the

number of mine rescue team members.

Because of the aforementioned final rule, the petition for the modification of the application of 30 C.F.R. § 49.6(a)(1) and (5) is not required. The proposed alternate method for the No. 12 Slope mine complies with the revised standard. Consequently, the modification is no longer needed.

### 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. § 49.6(a)(1) and (5) 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.

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