

In the matter of
North Fork Coal Corporation
Mine No. 5
I.D. No. 15-18732

Petition for Modification

Docket No. M-2010-025-C

PROPOSED DECISION AND ORDER

On May 12, 2010 a petition was filed seeking a modification of the application of 30 C.F.R. § 75.503 (30 C.F.R. § 18.35) to Petitioner's Mine No. 5 located in Letcher County, Kentucky. The Petitioner alleges that the alternative method proposed in the petition will at all times guarantee no less than the same measure of protection afforded by the standard.

Petitioner is seeking a modification of the application of mandatory safety standard 30 C.F.R. § 75.503, however, the modification should have been filed under 30 C.F.R. § 75.507-1. The petitioned standard requires that all electrical equipment **taken into or used inby the last open crosscut** of a coal mine shall be maintained permissible. Section 75.507-1 requires all electric equipment, other than power-connection points, **used in return air outby the last open crosscut** in any coal mine to be permissible. Petitioner seeks to increase the length of trailing cables that supply power to permissible pumps approved under § 18.35 and used in return air outby the last open crosscut. The modification requested by the petitioner to increase the length of cables can be acquired by submitting an application for Field Modification to the Approval and Certification Center, 765 Technology Drive, Triadelphia, West Virginia 26059.

On September 7, 2010, petitioner filed a request that the submitted Petition for Modification be withdrawn.

On the basis of the reasons specified above, North Fork Coal Corporation's application for modification of 30 C.F.R. § 75.503 to its Mine No. 5 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, and pursuant to Section 101(c) of the Federal Mine Safety and Health Act of 1977, 30 U.S.C. § 811(c), it is ordered that North Fork Coal Corporation's Petition for Modification of the application of 30 C.F.R. § 75.503 at its Mine No. 5 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 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 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
Coal Mine Safety and Health