

In the matter of
Rosebud Mining Company
Little Toby Mine
I.D. No. 36-08847

Petition for Modification

Docket No. M-2003-051-C

PROPOSED DECISION AND ORDER

On July 15, 2003, a petition was filed seeking a modification of the application of 30 CFR 75.1100-2(e)(2) to Petitioner's Little Toby Mine in Elk County, Pennsylvania. The Petitioner alleges that the alternative method outlined in the petition will at all times guarantee no less than the same measure of protection afforded by the standard.

MSHA personnel conducted an investigation of the petition and filed a report of their findings and recommendations with the Administrator for Coal Mine Safety and Health. After a careful review of the entire record, including the petition and MSHA's investigative report and recommendation, this Proposed Decision and Order is issued.

Finding of Fact and Conclusion of Law

The alternative method proposed by the Petitioner (as amended by the recommendations of MSHA) will at all times guarantee no less than the same measure of protection afforded the miners under 30 CFR 75.1100-2(e)(2).

On the basis of the petition and the findings of MSHA's investigation, Rosebud Mining Company is granted a modification of the application of 30 CFR 75.1100-2(e)(2) to its Little Toby Mine.

ORDER

Wherefore, 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., sec. 811(c), it is ordered that Rosebud Mining Company's Petition for Modification of the application of 30 CFR 75.1100-2(e)(2) in the Little Toby Mine is

hereby:

GRANTED, for the temporary electrical installations provided the Petitioner maintains two portable fire extinguishers having at least the minimum capacity specified for a portable fire extinguisher in 30 CFR 75.1100-1(e) at each of the temporary electrical installations.

Any party to this action desiring a hearing on this matter must file in accordance with 30 CFR 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 22209-3434.

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 Decision and Order will become final and must be posted by the operator on the mine bulletin board at the mine.

John Langton
Deputy Administrator
for Coal Mine Safety and Health