

In the matter of  
**Eastern Associated Coal Corporation**  
**Federal No. 2 Mine**  
I.D. No. **46-01456**

Petition for Modification

Docket No. **M-2004-023-C**

PROPOSED ORDER OF DISMISSAL

On **June 4, 2004**, a petition was filed by **Eastern Associated Coal Corporation** seeking a modification of the application of 30 CFR 75.364(b) to the Petitioner's **Federal No. 2 Mine**, located in **Monongalia County, West Virginia**. The Petitioner alleged that the alternate method proposed in the petition would at all times provide the same degree of safety as the existing standard. On **August 2, 2004**, MSHA received notification from **the attorney representing the mine operator** requesting that the petition for modification be withdrawn.

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 **Eastern Associated Coal Corporation's** Petition for Modification of the application of 30 CFR 75.364(b) in the **Federal No. 2 Mine** is hereby dismissed without prejudice.

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 22209-3939.

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 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.

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Terry L. Bentley  
Chief, Division of Safety  
Coal Mine Safety and Health