

June 16, 2005

In the matter of:
ICG Illinois, LLC
(Formerly Turriss Coal Company)
Viper Mine
(Formerly Elkhart Mine)
I.D. No. 11-02664

Petition for Modification

Docket No. M-1997-135-C

PROPOSED ORDER OF DISMISSAL

On November 3, 1997, Turriss Coal Company filed a petition pursuant to 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act), 30 U.S.C. Sec. 811(c), and 30 CFR 44 et seq., seeking modification of the application of 30 CFR 75.332(a)(2) to its Elkhart Mine, located in Logan County, Illinois. On July 26, 1999, Turriss Coal Company amended that petition. The Petitioner alleged that the alternative method outlined in the amended petition would at all times guarantee no less than the same measure of protection afforded by the standard.

After the initial investigation, Turriss Coal Company filed the amended petition providing additional measures for their alternate method. The original petition requested that Turriss Coal Company be able to cleanup and load with one continuous miner while the other miner cut and loaded coal from the face of another working place on a single split of air. Elkhart Mine stipulated that they would maintain the same ventilation and water sprays during the cleanup that would be required when cutting coal. The amended petition added a fire suppression measure, a ventilation control requirement, a training provision, and operational parameters for the continuous miner to the alternate method.

On May 26, 2005, the mine's current operator, ICG Illinois, LLC, submitted a request to rescind the petition at the subject mine, now known as Viper Mine. ICG Illinois, LLC states that it does not intend to use the continuous miner to clean and load loose rock and coal while the second continuous miner on the unit starts its cut. Therefore, the petition is not needed.

Therefore, pursuant to the authority delegated by the Secretary of Labor to the Administrator for Coal Mine Safety and Health, ICG Illinois, LLC's Petition for Modification of 30 CFR 75.332(a)(2) at its Viper Mine is hereby:

DISMISSED.

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 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.

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