

June 16, 2006

In the matter of
Highland Mining Company LLC
Highland 9 Mine
I.D. No. 15-02709

Petition for Modification

Docket No. M-2005-014-C

PROPOSED ORDER OF DISMISSAL

On March 8, 2005, Peabody Energy filed a petition for the modification of the application of 30 CFR 75.901 for the Highland Mining Company LLC's Highland 9 Mine, located in Union County, Kentucky. Petitioner proposed an alternative method of compliance with the standard in order to allow the use of a three-phase diesel-powered electric generator to move equipment in the mine.

Subsequent to this filing, MSHA promulgated mandatory safety standards governing the protection of low- and medium-voltage three-phase circuits used underground. This new regulation, which was effective on February 28, 2006, eliminated the need for petitions requesting modification of 30 CFR 75.901 as it applies to diesel-powered electric generators used to move equipment in the mine.

Therefore, pursuant to the authority delegated by the Secretary of Labor to the Administrator for Coal Mine Safety and Health, Highland Mining Company LLC's Petition for Modification of 30 CFR 75.901 to its Highland 9 Mine is hereby:

DISMISSED

Any party to this action desiring a hearing on this matter must file in accordance with 30 CFR 44 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 Order of Dismissal will become final.

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